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SITTING DAYS—2007

<table>
<thead>
<tr>
<th>Month</th>
<th>Date</th>
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<tr>
<td>February</td>
<td>6, 7, 8, 9, 26, 27, 28</td>
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<td>March</td>
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<td>12, 13, 14, 18, 19, 20, 21</td>
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<td>September</td>
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<td>15, 16, 17, 18, 22, 23, 24, 25</td>
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<td>November</td>
<td>5, 6, 7, 8, 12, 13, 14, 15, 26, 27, 28, 29</td>
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<td>December</td>
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RADIO BROADCASTS

Broadcasts of proceedings of the Parliament can be heard on the following Parliamentary and News
Network radio stations, in the areas identified.

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- **SYDNEY** 630 AM
- **NEWCASTLE** 1458 AM
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- **BRISBANE** 936 AM
- **GOLD COAST** 95.7 FM
- **MELBOURNE** 1026 AM
- **ADELAIDE** 972 AM
- **PERTH** 585 AM
- **HOBART** 747 AM
- **NORTHERN TASMANIA** 92.5 FM
- **DARWIN** 102.5 FM
FORTY-FIRST PARLIAMENT
FIRST SESSION—TENTH PERIOD

Governor-General

His Excellency Major-General Michael Jeffery, Companion in the Order of Australia, Commander of the Royal Victorian Order, Military Cross

Senate Officeholders

President—Senator the Hon. Paul Henry Calvert

Deputy President and Chairman of Committees—Senator John Joseph Hogg


Leader of the Government in the Senate—Senator the Hon. Nicholas Hugh Minchin

Deputy Leader of the Government in the Senate—Senator the Hon. Helen Lloyd Coonan

Leader of the Opposition in the Senate—Senator Christopher Vaughan Evans

Deputy Leader of the Opposition in the Senate—Senator Stephen Michael Conroy

Manager of Government Business in the Senate—Senator the Hon. Eric Abetz

Manager of Opposition Business in the Senate—Senator Joseph William Ludwig

Senate Party Leaders and Whips

Leader of the Liberal Party of Australia—Senator the Hon. Nicholas Hugh Minchin

Deputy Leader of the Liberal Party of Australia—Senator the Hon. Helen Lloyd Coonan

Leader of The Nationals—Senator the Hon. Ronald Leslie Doyle Boswell

Deputy Leader of The Nationals—Senator the Hon. Nigel Gregory Scullion

Leader of the Australian Labor Party—Senator Christopher Vaughan Evans

Deputy Leader of the Australian Labor Party—Senator Stephen Michael Conroy

Leader of the Australian Democrats—Senator Lynette Fay Allison

Leader of the Australian Greens—Senator Robert James Brown

Leader of the Family First Party—Senator Steve Fielding

Liberal Party of Australia Whips—Senators Stephen Parry and Julian John James McGauran

Nationals Whip—Senator Fiona Joy Nash

Opposition Whips—Senators George Campbell, Linda Jean Kirk and Ruth Stephanie Webber

Australian Democrats Whip—Senator Andrew John Julian Bartlett

Australian Greens Whip—Senator Rachel Siewert

Family First Party Whip—Senator Steve Fielding

Printed by authority of the Senate
# Members of the Senate

<table>
<thead>
<tr>
<th>Senator</th>
<th>State or Territory</th>
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<tbody>
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<td>30.6.2011</td>
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(1) Chosen by the Parliament of Queensland to fill a casual vacancy vice Hon. Santo Santoro, resigned.
(2) Chosen by the Parliament of Victoria to fill a casual vacancy vice Hon. Richard Kenneth Robert Alston, resigned.
(3) Term expires at close of day next preceding the polling day for the general election of members of the House of Representatives.
(4) Chosen by the Parliament of Tasmania to fill a casual vacancy vice Susan Mary Mackay, resigned.
(5) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Robert Murray Hill, resigned.
(6) Chosen by the Parliament of South Australia to fill a casual vacancy vice Jeannie Margaret Ferris, died in office.
(7) Chosen by the Parliament of South Australia to fill a casual vacancy vice Hon. Amanda Eloise Vanstone, resigned.
(8) Chosen by the Parliament of Western Australia to fill a casual vacancy vice Hon. Ian Gordon Campbell, resigned.

PARTY ABBREVIATIONS
AD—Australian Democrats; AG—Australian Greens; ALP—Australian Labor Party; CLP—Country Labor Party; FF—Family First Party; LP—Liberal Party of Australia; NATS—The Nationals

Heads of Parliamentary Departments

 Clerk of the Senate—H Evans
 Clerk of the House of Representatives—I C Harris
 Secretary, Department of Parliamentary Services—H R Penfold QC
HOWARD MINISTRY

Prime Minister: The Hon. John Winston Howard MP
Minister for Transport and Regional Services and Deputy Prime Minister: The Hon. Mark Anthony James Vaile MP
Treasurer: The Hon. Peter Howard Costello MP
Minister for Trade: The Hon. Warren Errol Truss MP
Minister for Defence: The Hon. Dr Brendan John Nelson MP
Minister for Foreign Affairs: The Hon. Alexander John Gosse Downer MP
Minister for Health and Ageing and Leader of the House: The Hon. Anthony John Abbott MP
Attorney-General: The Hon. Philip Maxwell Ruddock MP
Minister for Finance and Administration, Leader of the Government in the Senate and Vice-President of the Executive Council: Senator the Hon. Nicholas Hugh Minchin
Minister for Agriculture, Fisheries and Forestry and Deputy Leader of the House: The Hon. Peter John McGauran MP
Minister for Immigration and Citizenship: The Hon. Kevin James Andrews MP
Minister for Education, Science and Training and Minister Assisting the Prime Minister for Women’s Issues: The Hon. Julie Isabel Bishop MP
Minister for Families, Community Services and Indigenous Affairs and Minister Assisting the Prime Minister for Indigenous Affairs: The Hon. Malcolm Thomas Brough MP
Minister for Industry, Tourism and Resources: The Hon. Ian Elgin Macfarlane MP
Minister for Employment and Workplace Relations and Minister Assisting the Prime Minister for the Public Service: The Hon. Joseph Benedict Hockey MP
Minister for Communications, Information Technology and the Arts and Deputy Leader of the Government in the Senate: Senator the Hon. Helen Lloyd Coonan
Minister for the Environment and Water Resources: The Hon. Malcolm Bligh Turnbull MP
Minister for Human Services: Senator the Hon. Christopher Martin Ellison

(The above ministers constitute the cabinet)
HOWARD MINISTRY—continued

Minister for Fisheries, Forestry and Conservation and Manager of Government Business in the Senate
Senator the Hon. Eric Abetz

Minister for Small Business and Tourism
The Hon. Frances Esther Bailey MP

Minister for Local Government, Territories and Roads
The Hon. James Eric Lloyd MP

Minister for Revenue and Assistant Treasurer
The Hon. Peter Craig Dutton MP

Minister for Workforce Participation
The Hon. Dr Sharman Nancy Stone MP

Minister for Veterans’ Affairs and Minister Assisting the Minister for Defence
The Hon. Bruce Frederick Billson MP

Special Minister of State
The Hon. Gary Roy Nairn MP

Minister for Ageing
The Hon. Christopher Maurice Pyne MP

Minister for Vocational and Further Education
The Hon. Andrew John Robb MP

Minister for the Arts and Sport
Senator the Hon. George Henry Brandis SC

Minister for Community Services
Senator the Hon. Nigel Gregory Scullion

Minister for Justice and Customs
Senator the Hon. David Albert Lloyd Johnston

Assistant Minister for Immigration and Citizenship
The Hon. Teresa Gambaro MP

Assistant Minister for Environment and Water Resources
The Hon. John Kenneth Cobb MP

Parliamentary Secretary to the Prime Minister
The Hon. Anthony David Hawthorn Smith MP

Parliamentary Secretary to the Minister for Transport and Regional Services
The Hon. De-Anne Margaret Kelly MP

Parliamentary Secretary to the Treasurer
The Hon. Christopher John Pearce MP

Parliamentary Secretary to the Minister for Finance and Administration
Senator the Hon. Richard Mansell Colbeck

Parliamentary Secretary to the Minister for Industry, Tourism and Resources
The Hon. Robert Charles Baldwin MP

Parliamentary Secretary to the Minister for Foreign Affairs
The Hon. Gregory Andrew Hunt MP

Parliamentary Secretary to the Minister for Agriculture, Fisheries and Forestry
The Hon. Sussan Penelope Ley MP

Parliamentary Secretary to the Minister for Education, Science and Training
The Hon. Patrick Francis Farmer MP

Parliamentary Secretary to the Minister for Defence
The Hon. Peter John Lindsay MP

Parliamentary Secretary to the Minister for Health and Ageing
Senator the Hon. Brett John Mason
<table>
<thead>
<tr>
<th>Position</th>
<th>Name</th>
</tr>
</thead>
<tbody>
<tr>
<td>Leader of the Opposition</td>
<td>Kevin Michael Rudd MP</td>
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<td>Julia Eileen Gillard MP</td>
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<td>for Employment and Industrial Relations</td>
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<tr>
<td>and Shadow Minister for Social Inclusion</td>
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<td>Minister for Justice and Customs and Shadow Minister for Territories</td>
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<td>Shadow Assistant Treasurer and Shadow Minister for Revenue and Competition Policy</td>
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<td>Shadow Minister for Consumer Affairs</td>
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<td>Tanya Joan Plibersek MP</td>
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<td>Senator the Hon. Nicholas John Sherry</td>
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<td>Shadow Parliamentary Secretary for Education</td>
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<td>Shadow Parliamentary Secretary to the Leader of the Opposition</td>
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<td>The Hon. Warren Edward Snowdon MP</td>
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<td>Senator Ursula Mary Stephens</td>
</tr>
<tr>
<td>Community Affairs)</td>
<td></td>
</tr>
</tbody>
</table>
CONTENTS

THURSDAY, 9 AUGUST

Chamber
Petitions—
  Migration ...................................................................................................................... 1
  Immigration ................................................................................................................... 1
  Workplace Relations .................................................................................................... 1
Notices—
  Presentation ................................................................................................................... 2
Committees—
  Selection of Bills Committee—Report ........................................................................ 3
Business—
  Rearrangement ............................................................................................................. 13
  Rearrangement ............................................................................................................. 13
  Rearrangement ............................................................................................................. 13
Notices—
  Postponement ............................................................................................................. 13
International Day of the World’s Indigenous People......................................................... 14
Irish Motorway Project and the Hill of Tara ....................................................................... 14
Senator Heffernan .............................................................................................................. 14
Committees—
  Australia’s Antiterrorism Laws Committee—Establishment ........................................ 15
  Local Government ......................................................................................................... 17
  Income of University Students ...................................................................................... 18
  Wallarah 2 Coal Project ................................................................................................. 19
Committees—
  Economics Committee—Meeting ................................................................................ 19
  Millenium Development Goals ....................................................................................... 19
Committees—
  Regulations and Ordinances Committee—Ministerial Correspondence ........................ 20
  Corporations and Financial Services Committee—Report ........................................... 20
National Health Amendment (National HPV Vaccination Program Register) Bill 2007,
  Customs Tariff Amendment Bill (No. 1) 2007 and
  Corporations Amendment (Insolvency) Bill 2007—
    First Reading ............................................................................................................. 22
    Second Reading ......................................................................................................... 22
Superannuation Legislation Amendment (Trustee Board and Other Measures)
  (Consequential Amendments) Bill 2007—
    First Reading ............................................................................................................. 26
    Second Reading ......................................................................................................... 27
Trade Practices Legislation Amendment Bill (No. 1) 2007—
    First Reading ............................................................................................................. 28
    Second Reading ......................................................................................................... 28
Committees—
  Employment, Workplace Relations and Education Committee—Report ...................... 32
  Legal and Constitutional Affairs Committee—Reference ............................................. 37
Australian Postal Corporation Amendment (Quarantine Inspection and
  Other Measures) Bill 2007—
    Second Reading ....................................................................................................... 59
    Third Reading ............................................................................................................. 60
Therapeutic Goods Amendment Bill 2007—
CONTENTS—continued

Second Reading................................................................................................................. 60
Third Reading.................................................................................................................... 62
National Health Amendment (National HPV Vaccination Program Register) Bill 2007—
  Second Reading................................................................................................................. 62
  Third Reading.................................................................................................................... 64
Industrial Chemicals (Notification and Assessment) Amendment (Cosmetics) Bill 2007—
  Second Reading................................................................................................................. 64
  Third Reading.................................................................................................................... 67
International Tax Agreements Amendment Bill (No. 1) 2007—
  Second Reading................................................................................................................. 67
  Third Reading.................................................................................................................... 67
Customs Tariff Amendment Bill (No. 1) 2007—
  Second Reading................................................................................................................. 67
  Third Reading.................................................................................................................... 67
Corporations Amendment (Insolvency) Bill 2007—
  Second Reading................................................................................................................. 67
  Third Reading.................................................................................................................... 73
Questions Without Notice—
  Interest Rates................................................................................................................. 73
Distinguished Visitors......................................................................................................... 74
Questions Without Notice—
  Economy........................................................................................................................ 75
  Interest Rates.................................................................................................................... 76
  Employment..................................................................................................................... 77
  Housing Affordability...................................................................................................... 78
  Local Government.......................................................................................................... 80
  General Practitioners...................................................................................................... 81
Distinguished Visitors......................................................................................................... 82
Questions Without Notice—
  Child Care ..................................................................................................................... 82
  Housing Affordability...................................................................................................... 83
  Centrelink........................................................................................................................ 84
  Broadband......................................................................................................................... 85
Questions Without Notice: Additional Answers—
  Senator Heffernan............................................................................................................. 87
  Lucas Heights Reactor...................................................................................................... 87
Questions Without Notice: Take Note of Answers—
  Answers to Questions....................................................................................................... 88
  Centrelink........................................................................................................................ 93
Committees—
  Environment, Communications, Information Technology and the Arts Committee—
    Report............................................................................................................................. 94
    Membership.................................................................................................................... 95
Migration (Climate Refugees) Amendment Bill 2007—
  Second Reading................................................................................................................. 95
Documents—
  Australian Meat and Livestock Industry ......................................................................... 125
Committees—
  Treaties Committee—Report.......................................................................................... 127
  Regulations and Ordinances Committee—Report............................................................ 128
<table>
<thead>
<tr>
<th>CONTENTS—continued</th>
</tr>
</thead>
<tbody>
<tr>
<td>Environment, Communications, Information Technology and the Arts Committee—</td>
</tr>
<tr>
<td>Report ......................................................................................................................... 129</td>
</tr>
<tr>
<td>Environment, Communications, Information Technology and the Arts Committee—</td>
</tr>
<tr>
<td>Report ......................................................................................................................... 132</td>
</tr>
<tr>
<td>Consideration .......................................................................................................... 139</td>
</tr>
<tr>
<td>Auditor-General’s Reports—</td>
</tr>
<tr>
<td>Consideration .......................................................................................................... 140</td>
</tr>
<tr>
<td>Adjournment—</td>
</tr>
<tr>
<td>Respite ....................................................................................................................... 140</td>
</tr>
<tr>
<td>Welfare to Work ....................................................................................................... 142</td>
</tr>
<tr>
<td>Iraq .......................................................................................................................... 144</td>
</tr>
<tr>
<td>Documents—</td>
</tr>
<tr>
<td>Tabling ....................................................................................................................... 146</td>
</tr>
<tr>
<td>Questions On Notice</td>
</tr>
<tr>
<td>Wilderness Society—(Question Nos 2400 and 2402) ................................................. 149</td>
</tr>
<tr>
<td>Attorney-General’s—(Question Nos 2638 and 2648) ................................................. 149</td>
</tr>
<tr>
<td>Water—(Question No. 2971) ...................................................................................... 150</td>
</tr>
<tr>
<td>Wet Tropics World Heritage Area—(Question No. 3066) ........................................ 152</td>
</tr>
<tr>
<td>Convention on Biological Diversity—(Question No. 3149) .................................... 152</td>
</tr>
<tr>
<td>Trade Practices—(Question No. 3202) ...................................................................... 153</td>
</tr>
<tr>
<td>Aged Care—(Question No. 3215) ............................................................................. 155</td>
</tr>
</tbody>
</table>
Thursday, 9 August 2007

The PRESIDENT (Senator the Hon. Paul Calvert) took the chair at 9.30 am and read prayers.

PETITIONS

The Clerk—Petitions have been lodged for presentation as follows:

Migration

To the Honourable President and Members of the Senate in the Parliament assembled.

This petition of the undersigned citizens of Australia draws the following to the attention of the Senate:

The unfair legal treatment and public vilification of Dr Mohammed Haneef by the Howard Government has demonstrated that Australia’s Migration Act has totally inadequate protections against abuse of process and violation of basic rights. It is a fundamental principle in any democracy that a person should only be imprisoned following the use of a fair and transparent process, free of political interference.

We the undersigned therefore call upon the Senate to urgently implement necessary reforms to the Migration Act 1958 to ensure proper independent oversight of the use of ministerial powers and to provide adequate protections against politically motivated decisions, violations of natural justice, due process and the presumption of innocence.

by Senator Bartlett (from 163 citizens)

Immigration

The humble Petition of the Citizens of Australia, respectfully showeth:

That we re affirm our support for the Constitution of the Commonwealth of Australia which states “Whereas the people of New South Wales, Victoria, South Australia, Queensland and Tasmania humbly relying on the blessing of Almighty God, have agreed to unite in one indissoluble Federal Commonwealth...” (Constitution Act 9th July 1900) and the affirmation of 69% of our Australian population that they are Christians, and the statement of one of our founders that “this Commonwealth of Australia from its first stage will be a Christian Commonwealth” (Sir John Downer 1898), and the Opening Prayer of the Parliaments “Almighty God we humbly beseech Thee to vouchsafe Thy blessing upon this Parliament. Direct and prosper our deliberations to the advancement of Thy glory” and recognises the importance of these beliefs in ensuring the ongoing stability and unity of our Christian nation.

Your petitioners therefore pray the Parliament of Australia will:

1. Review our Commonwealth Immigration Policy to ensure the priority for Christians from all races and colours, especially from persecuted nations, as both immigrants and refugees.
2. Adopt a ten year moratorium on Muslim immigration, so an assessment can be made on the social and political disharmony currently occurring in the Netherlands, France and the UK, so as to ensure we avoid making the same mistakes; and allow a decade for the Muslim leadership and community in Australia to reassess their situation so as to reject any attempt to establish an Islamic nation within our Australian nation.

And your petitioners, as in duty bound, will ever pray.

by Senator Sandy Macdonald (from 107 citizens)

Workplace Relations

To the Honourable Speaker of the House and Members of the House assembled in Parliament:

The petition of certain citizens of Australia draws the attention of the House to the fact that Australian employees are worse off as a result of the Howard Government’s changes to the industrial relations system.

The petitioners call upon the Howard Government to adopt a plan to produce a fair industrial relations system based on fairness and the fundamental principles of minimum standards, wages and conditions; safety nets; an independent umpire; the right to associate; and the right to collectively bargain.
The petitioners therefore ask the House to ensure that the Howard Government delivers:

1. Proper rights for Australian workers who are unfairly dismissed.
2. A strong safety net of minimum awards and conditions.
3. An independent umpire to ensure fair wages and conditions, and to settle disputes.
4. The right for employees to bargain collectively for decent wages and conditions.
5. The right for workers to reject individual contracts which cut pay and conditions, and undermine collective bargaining and union representation.
6. The right to join a union and be represented by a union.

by Senator McLucas (from 430 citizens)

Petitions received.

NOTICES

Presentation

Senator WATSON (Tasmania) (9.31 am)—Following the receipt of a satisfactory response, on behalf of the Standing Committee on Regulations and Ordinances, I give notice that, on the next day of sitting, I shall withdraw business of the Senate notice of motion No. 1, standing in my name for two sitting days after today, for the disallowance of the Australian Federal Police Amendment Regulations 2006 (No. 1), as contained in Select Legislative Instrument 2006 No. 326.

Senator Milne to move on the next day of sitting:

That the Senate—

(a) notes that:

(i) the Nuclear Suppliers Group (NSG) is an intergovernmental body concerned with reducing nuclear proliferation by controlling the export and re-transfer of materials, including uranium, that may be applicable to the development of nuclear weapons,

(ii) the NSG was founded in 1975 in response to the Indian nuclear test of the previous year, a test which demonstrated that certain non-weapons specific nuclear technology could be readily used for weapons development, and

(iii) the NSG makes decisions by consensus, which means that each of the 45 NSG members, including Australia, must agree to the change of any rule, including those rules which prevent the export of uranium to non-Nuclear Non-Proliferation Treaty states such as India; and

(b) calls on the Government to use its position in the NSG to block the submission to exempt India from the NSG rules preventing the supply of uranium to states which have not signed the Nuclear Non-Proliferation Treaty.

Senator Abetz to move on the next day of sitting:

That—

(1) On Monday, 13 August 2007:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to adjournment;

(b) the routine of business from 7.30 pm shall be government business only;

(c) the question for the adjournment of the Senate shall be proposed at 10 pm; and

(d) standing order 54(5) shall apply to the adjournment debate as if it were Tuesday.

(2) On Tuesday, 14 August 2007:

(a) the hours of meeting shall be 12.30 pm to 6.30 pm and 7.30 pm to 11.40 pm;

(b) the routine of business from 7.30 pm shall be government business only; and

(c) the question for the adjournment of the Senate shall be proposed at 11 pm.

(3) On Thursday, 16 August 2007:

(a) the hours of meeting shall be 9.30 am to 6.30 pm and 7.30 pm to adjournment;

(b) consideration of general business and consideration of committee reports,
government responses and Auditor-General’s reports under standing order 62(1) and (2) shall not be proceeded with;

(c) the routine of business from 12.45 pm till not later than 2 pm, and from not later than 4.30 pm, shall be government business only;

(d) divisions may take place after 4.30 pm; and

(e) the question for the adjournment of the Senate shall be proposed after the Senate has finally considered the bills listed below, including any messages from the House of Representatives:

APEC Public Holiday Bill 2007
Aviation Legislation Amendment (2007 Measures No. 1) Bill 2007
Social Security and Other Legislation Amendment (Welfare Payment Reform) Bill 2007
Northern Territory National Emergency Response Bill 2007
Families, Community Services and Indigenous Affairs and Other Legislation Amendment (Northern Territory National Emergency Response and Other Measures) Bill 2007
Appropriation (Northern Territory National Emergency Response) Bill (No. 1) 2007-2008
Appropriation (Northern Territory National Emergency Response) Bill (No. 2) 2007-2008
Water Bill 2007
Water (Consequential Amendments) Bill 2007

Senator Bob Brown to move on the next day of sitting:
That the Senate—

(a) notes with regret:
(i) news of the extinction of the Yangtze River dolphin, and

(ii) that this is the first large vertebrate to be forced to extinction by human activity in 50 years and only the fourth time since the year 1500 that an entire evolutionary line of mammals has vanished from the face of the earth; and

(b) calls on the Government to ensure the implementation of Australian law, requiring management plans to lift creatures facing extinction to greater safety in Australia.

Senator Nettle to move on the next day of sitting:
That the Senate—

(a) notes that:
(i) the acceptance and celebration of diversity, including sexual orientation and gender diversity, is essential for genuine social justice and equality, and

(ii) discrimination against same-sex couples continues to be a significant cause of distress in the community; and

(b) calls on the Government to:
(i) remove all forms of discrimination against same-sex couples from current federal legislation, and

(ii) legislate to allow marriage between two people, regardless of their sexual orientation or gender identity.

COMMITTEES
Selection of Bills Committee
Report
Senator PARRY (Tasmania) (9.33 am)—I present the 12th report of 2007 of the Selection of Bills Committee. I seek leave to have the report incorporated in Hansard.

Leave granted.
The report read as follows—

SELECTION OF BILLS COMMITTEE
REPORT NO. 12 OF 2007
1. The committee met in private session on Wednesday, 8 August 2007 at 4.17 pm.
2. The committee resolved to recommend—
That the provisions of the Water Bill 2007...
and Water (Consequential Amendments) Bill 2007 be referred immediately to the Environment, Communications, Information Technology and the Arts Committee for inquiry and report, but was unable to reach agreement on a reporting date. (see appendix 1 for statements of reasons for referral).

3. The committee resolved to recommend—
That the following bills not be referred to committees:

- Independent Contractors Amendment Bill 2007
- Migration (Climate Refugees) Amendment Bill 2007
- Peace and Non-Violence Commission Bill 2007
- Public Interest Disclosures Bill 2007.

The committee recommends accordingly.

4. The committee considered a proposal to refer the Lobbying and Ministerial Accountability Bill 2007 to the Finance and Public Administration Committee, but was unable to reach agreement on whether the bill should be referred.

5. The committee deferred consideration of the following bills to its next meeting:

- Australian Securities and Investments Commission (Fair Bank and Credit Card Fees) Amendment Bill 2007

Stephen Parry
Chair
9 August 2007.

Appendix 1

SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):
Water Bill 2007
Water (Consequential Amendment) Bill 2007

Reasons for referral/principal issues for consideration
Purpose of the Bills

The Water Bill establishes an overriding Commonwealth water resource management function across the Murray-Darling Basin and a national water data collection, analysis and information service within the Bureau of Meteorology.


Reasons for Urgency
The Water Bill and the Water (Consequential Amendments) Bill are necessary to implement the measures contained within the National Plan for Water Security.

These bills are necessary to implement the measures contained within the National Plan for Water Security.

The current arrangements for the management of the Murray-Darling Basin by consensus of the relevant states, the Australian Capital Territory, and the Commonwealth have failed to deliver timely and adequate responses to the accelerating overuse and degradation of the water resources of the Basin. The National Plan for Water Security provides for these measures to be addressed subject to placing the Basin under overriding Commonwealth authority.

These bills, together as a package, provide for Commonwealth management of the Murray-Darling Basin and are a prerequisite for the implementation of the assistance and reform measures set out in the National Plan for Water Security. Failure to implement the measures quickly will delay the reforms and allow the degradation and overuse of the waters of the Murray-Darling Basin to compound.

Possible submissions or evidence from:
Committee to which bill is to be referred:
Environment, Communication, IT and the Arts

Possible hearing date(s):
10 August 2007

Possible reporting date:
14 August 2007

(signed)
S Parry
Whip/Selection of Bills Committee member
SELECTION OF BILLS COMMITTEE
Proposal to refer a bill to a committee
Name of bill(s):
Water Bill 2007
Reasons for referral/principal issues for consideration
Very significant change to Land & Water management in the Murray Darling system
Possible submissions or evidence from:
Farmers
Farmer organisations
Environment Groups
Local Government
State Government
Committee to which bill is to be referred:
Rural and Regional Affairs & Transport
Possible hearing date(s):
10 August 2007
Possible reporting date:
14 August 2007
(signed)
Rachel Siewert
Whip/Selection of Bills Committee member
Senator PARRY—I move:
That the report be adopted.
Senator ABETZ (Tasmania—Manager of Government Business in the Senate) (9.33 am)—I move the following amendment:
At the end of the motion, add “and, in respect of the provisions of the Water Bill 2007 and the Water (Consequential Amendments) Bill 2007, the Environment, Communications, Information Technology and the Arts Committee report by 14 August 2007”.
Senator BARTLETT (Queensland) (9.33 am)—The Democrats have serious concerns about the date of 14 August that the Manager of Government Business in the Senate has put forward, which the observant amongst you would realise is next Tuesday. That is, frankly, an absurdly short time frame. The Democrats’ view is that we should be seeking to have the committee report back on the first sitting date in September, which, off the top of my head, I think is 10 or 11 September, when we come back after the APEC meeting.

The water bills, as we all know, are very significant, hugely historic in lots of ways and not necessarily something that the Democrats oppose—certainly not in principle. We have made that very clear publicly a number of times. I do not know how many times I can say this in this place: we have a responsibility to do the job right. I know the Prime Minister has his political agenda and I know that state governments have their political agendas; the farming lobby and the environment lobby have their political agendas. The Senate’s job is to make sure that we look at what is actually going to become law.

Let us look at the reality of what the government’s proposal will mean. These incredibly significant pieces of legislation deal with the Murray-Darling Basin. As we all know, we have these bills because the Murray-Darling Basin is in crisis; it is at an absolute, total crisis point. If serious and effective action is not taken very promptly, that damage will be permanent. That does not mean that if we do not get these bills passed by next week that damage will be permanent. The prospects of saving the situation are dramatically enhanced if we do it right and do not pass them until September, in one month’s time.

It is ludicrous to suggest that that would be the case, given that this has dragged on all year. As we know, it came out of absolutely nowhere when the Prime Minister made his grand announcement. I will not speculate on his motivation because, whatever that was, there is no doubt that action needed to happen. So he made his grand announcement out of nowhere, as we all know, without consul-
tation even with cabinet, Treasury, or a whole lot of people in the government, let alone anywhere else, saying that this was crucial and that we needed to surge ahead. Here we are in August and we are just now getting some legislation. Even today, we do not know if the New South Wales government is now supportive or not.

I am not commenting on any of those disputes and differences of views; what I am commenting on is the Senate’s responsibility to get it right. It is totally ludicrous to suggest that we can examine this legislation and hear from the stakeholders, from the people who will be directly affected, from the state governments, from the farmers, from the environmental experts, from the scientists and from affected Indigenous people in this space of time.

The reality of this proposal from the government, if it goes ahead, will be that we hold a Senate committee hearing tomorrow. In less than 24 hours time, people will be expected to come and give evidence on these bills—people who do not even know that they are invited yet, people who do not even know what time they are going to be appearing, people who have had less than 24 hours to provide a written submission. They are all meant to suddenly get to Canberra and provide informed opinion to the Senate so we can assess whether we are getting this right. Can anyone here credibly tell me that that is a responsible process? Of course it is not. It is grossly irresponsible. It is a dereliction of our most fundamental duty.

And we are doing it again with the water bills and the Murray-Darling Basin. It is a huge, incredibly important area. This is major, groundbreaking legislation that is a huge shift in how things are dealt with. It has serious constitutional questions to consider and address, and there are obvious differences of views about how it is going to operate in terms of the key stakeholders. And we are meant to just have a hearing tomorrow. We have just come from a meeting of the committee and we are still sorting out the witnesses for the hearing. It is just ludicrous. This is what this government has reduced the Senate to by grossly misusing its Senate power. It is a fundamental breach of the Prime Minister’s promise after the last election when he promised he would not abuse the Senate power. He has done it time and time again and he is doing it now. (Time expired)

Senator SIEWERT (Western Australia) (9.39 am)—The Greens wanted the water bills referred to a different committee, although we are happy they are going to the Senate Standing Committee on Environment, Communications, Information Technology and the Arts. But we do believe that the committee should be reporting on 10 September. This legislation contains fundamental, major changes to the way land and water are managed in Australia. There are a number of organisations that will want to review the legislation. At our first look at the bills, the Greens found some good areas in the legislation, but we do have some concerns,
particularly about some of the environmental clauses, how the environment is going to be managed and whether it is going to be environmentally sustainable.

We need much more time to be able to consider this legislation. The community groups do too. I am particularly concerned that Indigenous organisations are not going to have time to look at this legislation properly. I have already had an Indigenous organisation contact my office to raise concerns with me about the bills and the lack of inclusion of traditional rights and Indigenous involvement in the management of the river. It is highly unlikely that organisations will be able to get a submission in by tomorrow, much less appear tomorrow before the committee, because the committee is meeting tomorrow. Organisations are being contacted now to come to Canberra tomorrow. If you are not based in Canberra or very close to Canberra, you will not be able to appear before the committee. You may be able to be on a phone link-up, but that is not as good as being able to appear before the committee and being able to listen to the evidence from the other people appearing.

This is significant, long-term change to Australia's biggest river system and to our largest agricultural producing system. It has some of our most important wetlands and our most important rivers. It is absolutely vital that everybody has an opportunity to adequately review this legislation. Again, as happened yesterday on the Northern Territory legislation, I do not think any senator will be able to stand with their hand on their heart and say that they absolutely understand all the ramifications of the bills—there are two bills in this package of legislation. In the past, I have raised concerns about how this particular bill and water management interrelate with the natural resource management in the catchment. To date, I have not been given satisfactory answers. Unfortunately, in the limited time frame that is available for consideration of these bills, I do not think that those answers will be available.

There is a vast variety of stakeholders and issues involved here, covering an area from Queensland right through to South Australia. How, for example, are South Australian urban water users going to be able to get hold of this legislation, adequately review it and put in a submission by tomorrow? I see no reason why, other than the government’s desire to rush this through this place, we could not hold an inquiry during the September break. I think that would allow a much more thorough process. It would be much fairer for the community and it would certainly be much fairer for the senators considering this legislation. It would enable us to consider all the information that is available.

As I said, it seems like there are some very good bits in this legislation, but there are also very significant problems that need to be adequately considered. The Greens do not support the motion moved by the government to have this committee report by Tuesday. We believe it should be reporting on 10 September to allow adequate time to fully consider the ramifications of this legislation and the very significant changes it makes to the way we manage our water and natural resources. This is probably the last time that we will be able to put in place adequate management regimes for the Murray before it dies. If we do not get it right this time, it will basically be gone. And bear this in mind: if the environment of the Murray is gone, agriculture in the whole of the Murray-Darling Basin will be permanently changed. So we have to get it right. You would think the government would allow adequate time for us to get it right this one last time, because this is our last chance to get it right.
The PRESIDENT—The question is that the amendment moved by Senator Abetz be agreed to.

Question agreed to.

The PRESIDENT—The question now is that the motion, that the report of the Selection of Bills Committee be adopted, as amended, be agreed to.

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (9.44 am)—I move:

At the end of the motion, add “and, in respect of the Lobbying and Ministerial Accountability Bill 2007, the bill be referred to the Finance and Public Administration Committee for inquiry and report by 31 October 2007”.

The report reads at point (4):

(4) The committee considered a proposal to refer the Lobbying and Ministerial Accountability Bill 2007 to the Finance and Public Administration Committee, but was unable to reach agreement on whether the bill should be referred.

So the committee was unable to come to agreement on that. The fact is that the committee is in default there by saying that it should not be referred. I stand to be corrected, but I would think that means that the government does not agree with this important bill being referred.

The Lobbying and Ministerial Accountability Bill 2007, which I brought into the Senate some weeks ago, requires ministers to divest themselves of all shares or move them to a blind trust within 28 days of becoming a minister. It also requires the public registration and regulation of lobbyists and it places limits on the post-separation employment of ministers for up to two years after leaving the parliament. It is a bill to increase public confidence in the body politic and in particular in the decisions made by parliamentarians. It aims to remove the spectre of undue influence being placed on ministers or, through lobbyists, on all members of parliament.

It is an important bill. It will bring Australia into line with the practice in overseas countries like Britain and Canada, through greater transparency of the activities of lobbyists in parliament and the behaviour of parliamentarians. In particular, it will remove the possibility of instant jobs for members of parliament after they leave this place, where, on behalf of sectoral interests, they are able to influence the decisions made in parliament.

This bill should be referred to a committee. It should be available for public comment and it should be on a trajectory to be dealt with and debated in this parliament during this period of government. It is not satisfactory for the committee to have determined, by failure to agree, that the bill will not be referred to a committee. I object to that. There is no reason given by the majority or the government. I do not know what is to be gained by refusing to have an analysis of this bill. That speaks volumes in itself. The inference can be drawn that the government simply does not want the accountability which this bill would bring to Australian politics. It is running away from it. Be that as it may, I am now moving this amendment so that the bill does get referred to the Senate Standing Committee on Finance and Public Administration for report by October and does get the public input that it deserves.

Senator ABETZ (Tasmania—Minister for Fisheries, Forestry and Conservation) (9.48 am)—The government opposes the amendment. I will outline for those who may be interested that John Howard is in fact the first Prime Minister to have established a public ministerial code. Most of these issues have been previously considered by the Senate Standing Committee on Finance and Public Administration, through Senator Murray’s
Charter of Political Honesty Bill. A report on that bill was tabled, I understand, some five years ago.

This is a stunt by Senator Bob Brown. Neither the parliament nor successive governments have imposed constraints on former ministers as to what employment they may take up after leaving office. It has been left to an individual’s judgement.

Senator Bob Brown—What poor judgement has been shown!

Senator ABETZ—As Senator Brown interjects, I simply say to those who may be listening that to come to this debate you have to come with clean hands. Senator Brown does not, because of his personal conduct with his own private RJ Brown Forest Account, which he has not properly disclosed to this place. We had to bring him back for the register of senators’ interests.

Senator Bob Brown—Mr President, I rise on a point of order. That was referred to a committee, which made no such finding. The imputation is not warranted, is unjustified and should be withdrawn.

The PRESIDENT—I ask the minister to address his comments to the amendment.

Senator ABETZ—The amendment is in relation to standards. If somebody wants to come into this chamber and try to impose standards on others, I think it is more than appropriate for us to consider the standards they apply to themselves—such as raising money on the basis of saying: ‘This is a rock I found in the Franklin River. Who will buy it at auction?’ You get $1,000 for it and never disclose who was the purchaser of that rock, and then the person gives the rock back to Senator Brown at the end of the auction. Just imagine if a minister of the Crown were engaged in such funny money deals. Senator Brown would be the most outraged of any individual, with all the puffed up, faux outrage that we have now come to expect from him. Senator Brown is the one who gets personal loans from lawyers in Hobart and discloses them a long time after they should have been disclosed. It is about time the Australian people knew the facts about Senator Brown, whenever he puts his hand on his heart and asserts integrity in public life, money and public disclosure. If we were to behave in the way that Senator Brown does, there would be outrage, especially from our friends in the media.

We believe that the standards that have been applied are the highest that have ever been applied. One thing the Australian people can be assured of is that we will never descend to the sorts of rock auctions that Senator Brown has engaged in and his failure to disclose. When he disclosed to the Senate about his donations, he only put names—sometimes only with initials—so you had no idea where the people lived. We now know that some of those people were overseas donors. I think it is about time that Senator Brown got his own house in order, before he tries to assert these standards and before he tries to clean the few specks of dust that may exist in other people’s houses.

Senator STOTT DESPOJA (South Australia) (9.52 am)—I would like to get back to the debate at hand. I am not quite sure how this has degenerated into personal attacks, but nothing surprises me in this place at the moment. I want to place on record that the Australian Democrats are happy to support the amendment that has been proposed by Senator Brown on behalf of the Greens. One of the reasons for us supporting that is the policy matter that is before us for debate. As the then Leader of the Australian Democrats back in 2002, I introduced a comparable piece of legislation. I note that Senator Abetz also acknowledged Senator Murray’s charter of honesty legislation—the Minister of State Post Retirement Employment Restriction Bill 2002—which was reintroduced in 2004.
This is worthy legislation that deserves examination and report. For that reason we will be supporting it. It is because of the policy matter only—that on that basis—that we are happy to support this amendment. Mr President, as you would well be aware, my colleague and the Democrats deputy leader, Senator Bartlett, has repeatedly placed on record our views in relation to the selection of bills process.

Senator LUDWIG (Queensland) (9.54 am)—We have before us a motion to refer the Lobbying and Ministerial Accountability Bill 2007 to the Standing Committee on Finance and Public Administration. In the Selection of Bills Committee, individual senators seek to have matters or private members’ bills referred to a particular Senate committee for an inquiry and its report. Under the previous system—before we combined the two Senate committees—it may have been a more general reference that would have been referred, and it would have come here. The usual answer that the opposition gives to these things is that references by individual senators should generally be referred to committees. Those committees then are able to inquire into them within reasonable time frames to look at the particular issues. That is the general principle that Labor has supported.

Since the government’s changes to the committee system, we now have one committee that deals with both legislation and references. With the matters that go to the Selection of Bills Committee for determination, if the committee cannot come to a reasoned conclusion or agreement on these matters—as clearly it did not do, because the government was not able to agree, it seems from Senator Abetz’s statements today—then we have to have the argument here. That does not always reflect all the matters that should be taken into account in dealing with the issue.

To Senator Brown, through you, Mr President: one of the matters that concern me is that the time frame is a little bit short. Firstly, there is the workload of the particular committee. Also, the committee usually advertises these matters once they have been referred and, depending on the committee’s workload, there may be a return date of four to six weeks for people to make reasonable submissions. That is what happens in the usual course of events where someone wants a proper inquiry; we are not so much talking about the situation where the government wants a short inquiry.

The committee’s time frame before reporting back is particularly short. In this instance, I am not sure whether an October return date will actually end up happening. We may end up in a position where we have been prorogued at that point. It is, of course, in the government’s hands when that is likely to occur, but we have heard that there is going to be an election some time at the end of this year—most likely in November. The government are obviously not going to confirm that—although it would be helpful if they did—but that seems to be the broad suggestion. It concerns me that, if you have an October date, we may not be back here to be able to deal with the matter in any sense. Then the committee itself will have to make a general consideration as to what resources it will put into these things and how the submissions will then be dealt with. After the election, it is a question of whether the committee will pull that report back up again and continue on. Having said all that and hopefully explained the matter to Senator Brown, I emphasise that this underlines the difficulty that the committee might have in dealing with this particular reference.

We will not take a position of opposing it, but we do note all of those problems that might arise. I think that Senator Brown should consider these matters if he really
wants these things to be proceeded with in a sensible way and to be dealt with. We are not going to take the government’s view about these things. The government provides for short committee inquiries. In our view, it does not allow the time to have these inquiries dealt with in a proper way and we are not going to buy into its argument. We make the point with regard to Senator Brown’s particular inquiry that he might be falling into the same trap that the government falls into when it makes these types of committee arrangements.

Senator BARTLETT (Queensland) (9.59 am)—I want to place a couple of things clearly on the record in relation to the specific matter that we are dealing with here. It is a proposal, through Senator Brown, for a private senator’s bill of his to be considered by a Senate committee. I am not going to go to the merits or otherwise of what is in the bill; others have done that. That is what Senate committees are actually for.

Once upon a time there used to be a convention in this place whereby, if anybody wanted a bill referred to a committee for examination, unless there were extraordinarily pressing reasons, the Senate would agree to it and the Selection of Bills Committee would agree to it. There might have been a difference of opinion over reporting dates, but if somebody wanted to refer a bill—if even one senator wanted to refer a bill—because they thought it merited examination then the Senate would agree to it. I do not know how many times you have to destroy a convention before it no longer applies at all. I suspect we are already at that point. That is one of the problems with the government’s approach as they have got control of the Senate: they have degraded and debauched and besmirched the Senate process and the whole nature of the Senate’s activities so thoroughly that you have to wonder—even if they do lose control of the Senate at the coming election, and whoever ends up in government—whether the Senate will go back to having some of the more thorough and more independent accountability and examination processes that it had in the past. That to me is a real concern, and that is why I am pleased that Labor have taken a position of being prepared to support this. It does not mean they think it is a great idea. They are not convinced that the timing is right. But, with respect to appropriate recognition of the role of the Senate, if somebody wants to put a bill forward, unless there is a really strong reason not to do so, you do it.

That goes to the second point I wanted to make. The Senate is not a house of government. The Senate should be an independent chamber examining legislation and private senators’ bills. This even goes to the point that Senator Ludwig was making about time frames. Particularly with private senators’ bills, we bring them back at a certain time; that does not mean we bring them back at a certain time so we can bring them on for debate straightaway.

As we all know, in many cases we put forward private senators’ bills not because we are expecting them to come on for debate, much as we might like them to, but to try to get issues considered, to try and inform the Senate more fully about the sorts of matters that are contained in the legislation and to try and get all of us to think about the possibilities of inserting those sorts of legislative principles in laws, perhaps in other contexts, including in government legislation that comes through. That is why it is totally valid for a Senate committee to examine something—even, I might say, in the lead-up to an election.

We know there will be an election sometime before the end of the year, and I would assume that has significantly influenced Senator Brown’s choice of date. But, given
that this legislation that is proposed to be referred to the committee is not going to be brought on for a vote before the election, even that becomes somewhat academic. The level of interest from those on the committee who are focused on the election may be less than 100 per cent. But there is more to Senate committees than the senators who sit on the committees. There are the people in the wider community who have the expertise and the views, and there is the opportunity for those things to go on the public record through submissions.

I would point to my experience in referring one of my own private senators’ bills, relating to animal welfare. That had massive public interest. I think we had over 200 submissions. The rest of the committee were so uninterested they did not even bother to hold a public hearing and brought down what I thought was a derisory, perfunctory report. That is fine, in one sense: that is their view and that is the process they decided to take. But the opportunity to have all of that material, all those views, collated in one place on the public record for everybody to make use of in formulating public policy in a particular area down the track is important. So it is not all about the government. It is not even all about us. It is not all about just pushing legislation through. It is about getting a more informed public policy debate and a wider range of ideas about potential legislative reform in a much broader and ongoing context. That is why, unless there are very good reasons, we should not be opposing references of private senators’ bills to committees. It does not get in the way of the government’s program in the chamber at all. It does not even necessarily distract senators on committees. They do not have to hold public hearings if they do not want to. What it does do, by blocking it, is prevent the issue from being examined more thoroughly by the people in the wider community. The government might be happy to silence the rest of us in this chamber regularly, but they should not be so readily silencing people in the wider community.

Question put:
That the amendment (Senator Bob Brown’s) be agreed to.

The Senate divided. [10.08 am]

(The President—Senator the Hon. Paul Calvert)

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AYES
Bartlett, A.J.J.
Brown, B.J.
Campbell, G. *
Conroy, S.M.
Evans, C.V.
Fielding, S.
Hogg, J.J.
Hutchins, S.P.
Ludwig, J.W.
McEwen, A.
Milne, C.
Murray, A.J.M.
O’Brien, K.W.K.
Ray, R.F.
Stephens, U.
Stott Despoja, N.
Wortley, D.

NOES
Abetz, E.
Barnett, G.
Birmingham, S.
Boyce, S.
Calvert, P.H.
Colbeck, R.
Cormann, M.H.P.
Ferravanti-Wells, C.
Fisher, M.J.
Humphries, G.
Joyce, B.
Lightfoot, P.R.
Macdonald, J.A.L.
McGauran, J.J.J.
Nash, F. *

Bishop, T.M.
Brown, C.L.
Carr, K.J.
Crossin, P.M.
Faulkner, J.P.
Forsyth, M.G.
Hurley, A.
Kirk, L.
Marshall, G.
McLucas, J.E.
Moore, C.
Nettle, K.
Polley, H.
Siewert, R.
Sterle, G.
Webber, R.
Thursday, 9 August 2007

Question negatived.
Original question, as amended, agreed to.
Report adopted.

BUSINESS

Rearrangement

Senator NASH (New South Wales) 
(10.11 am)—by leave—At the request of the Chair of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts, Senator Eggleston, I move: 

That business of the Senate order of the day no. 2, relating to the presentation of the report of the Environment, Communications, Information Technology and the Arts Committee on the provisions of the Communications Legislation Amendment (Information Sharing and Datacasting) Bill 2007, be postponed till a later hour.

Question agreed to.

Rearrangement

Senator NASH (New South Wales) 
(10.12 am)—At the request of Senator Abetz, I move: 

That the order of general business for consideration today be as follows:
(a) general business order of the day no. 102 (Migration (Climate Refugees) Amendment Bill 2007); and 
(b) orders of the day relating to government documents.

Question agreed to.

NOTICES

Postponement

The following items of business were postponed:

Business of the Senate notice of motion no. 1 standing in the name of Senator Faulkner for today, proposing the reference of a matter to the Foreign Affairs, Defence and Trade Committee, postponed till 13 August 2007.

General business notice of motion no. 836 standing in the name of Senator Murray for today, relating to alcohol abuse in Australia, postponed till 14 August 2007.

General business notice of motion no. 847 standing in the name of the Leader of The Nationals in the Senate (Senator Boswell) for today, relating to Queensland local government, postponed till 13 August 2007.

General business notice of motion no. 848 standing in the names of the Leader of the Australian Democrats (Senator Allison) and Senators Bartlett, Murray and Stott Despoja for today, proposing the introduction of the Same-Sex: Same Entitlements Bill 2007, postponed till 13 August 2007.
INTERNATIONAL DAY OF THE WORLD’S INDIGENOUS PEOPLE

Senator BARTLETT (Queensland) (10.13 am)—I move:
That the Senate—
(a) notes that:
(i) 9 August 2007 is International Day of the World’s Indigenous People,
(ii) it marks a day that we honour and pay respect to Australia’s First Peoples as well as Indigenous peoples across the world for their traditions and knowledge, as well as to the valuable contribution they have made to the cultures of the world and to environmental conservation, and
(iii) it is appropriate to reflect on the positive advancements that have been made internationally to protect the rights of Indigenous peoples and to guarantee them equal treatment, as well as to provide a reminder of how much more needs to be done; and
(b) calls on the Government to support the adoption of the Declaration on the Rights of Indigenous Peoples when it is considered later in 2007.

Question negatived.

IRISH MOTORWAY PROJECT AND THE HILL OF TARA

Senator BOB BROWN (Tasmania—Leader of the Australian Greens) (10.13 am)—I move:
That the Senate requests the Irish Government to inform the Senate about:
(a) the project to route the M3 motorway through the Royal Demesne of Tara and the unique archaeological, historical and cultural site of the Hill of Tara;
(b) the current progress of the project; and
(c) any alternative routes which could be used to protect this unique site.

Question put.
The Senate divided. [10.18 am]

AYES
Brown, B.J. Nettle, K. Stiewert, R. *

NOES

Question negatived.

SENIOR HEFFERNAN

Senator CHRIS EVANS (Western Australia—Leader of the Opposition in the Senate) (10.21 am)—I move:
That the Senate—
(a) condemns the actions of Senator Heffernan in gatecrashing the press conference of a delegation of Indigenous leaders on 7 August 2007;
(b) notes that this is now the third time Senator Heffernan has committed such an offence;
(c) calls on the Prime Minister (Mr Howard) to discipline his close friend, Senator Heffernan, and require him to observe the normal courtesies extended to visiting delegations and fellow parliamentarians; and
(d) believes that retaliation for Senator Heffernan’s actions would not add to the dignity of the parliamentary process.

Question put.

The Senate divided. [10.26 am]

(The President—Senator the Hon. Paul Calvert)

AYES

Allison, L.F.  Bartschat, A.J.J.
Bishop, T.M.  Brown, B.J.
Brown, C.L.  Campbell, G. *
Carr, K.J.  Crossin, J.P.
Evans, C.V.  Faulkner, J.P.
Fielding, S.  Forbes, S.
Hogg, J.J.  Hurley, A.
Hutcheson, S.P.  Kirk, L.
Ludwig, J.W.  Marshall, G.
McEwen, A.  McLucas, J.E.
Milne, C.  Moore, C.
Murray, A.J.M.  Nettle, K.
O’Brien, K.W.K.  Polley, H.
Ray, R.F.  Siewert, R.
Stephens, U.  Sterle, G.
Stott Despoja, N.  Webber, R.
Wortley, D.

NOES

Abetz, E.  Adams, J.
Barnett, G.  Bernardi, C.
Birmingham, S.  Boswell, R.L.D.
Boyce, S.  Brandis, G.H.
Calvert, P.H.  Chapman, H.G.P.
Colbeck, R.  Coonan, H.L.
Cormann, M.H.P.  Eggleston, A.
Fierravanti-Wells, C.  Fifield, M.P.
Fisher, M.J.  Heffernan, W.
Humphries, G.  Joyce, B.
Kemp, C.R.  Lightfoot, P.R.
Macdonald, L.  MacGauran, J.J.J.
Mason, B.J.  Nash, F. *
Parry, S.  Patterson, K.C.
Payne, M.A.  Ronaldson, M.
Scullion, N.G.  Troeth, J.M.
Trood, R.B.  Watson, J.O.W.

PAIRS

Conroy, S.M.  Johnston, D.
Landy, K.A.  Ferguson, A.B.
Sherry, N.J.  Ellison, C.M.

* denotes teller

Question negatived.

COMMITTEES

Australia’s Antiterrorism Laws Committee

Establishment

Senator STOTT DESPOJA (South Australia) (10.28 am)—I move:

(1) That a select committee, to be known as the Select Committee on Australia’s Anti-terrorism Laws be established to inquire into and report upon Australia’s anti-terrorism laws in light of the case of Dr Mohamed Haneef, including whether the laws which enabled the detention and charging of Dr Haneef:
(a) adequately safeguard Australian citizens from the threat of terrorism;
(b) reasonably and adequately define ‘terrorism’ and terrorism-related offences;
(c) provide reasonable and adequate guidance on matters of policy, practice and procedure to investigative and enforcement agencies, such as the Australian Federal Police;
(d) maintain an appropriate balance between the need to curtail individual freedoms in situations involving a terrorist threat and the fundamental civil liberties and human rights of Australian citizens;
(e) have affected fundamental principles of justice such as the presumption of innocence and habeus corpus, and the granting of bail;

(f) allow for periods of indefinite detention of suspects while being questioned or contain provisions allowing for periods of ‘dead time’ which require amendment or review;

(g) are in accordance with notions of procedural fairness and natural justice;

(h) contain or require provisions allowing parliamentary or judicial review;

(i) are compatible with Australia’s obligations under international law;

(j) interact appropriately with other powers of detention or deportation, for example immigration laws; and

(k) any other related matters pertaining to the operation of the laws.

(2) That the committee present its final report on or before 1 December 2007.

(3) That the committee consist of 9 senators, as follows:

(a) 4 to be nominated by the Leader of the Government in the Senate;

(b) 3 to be nominated by the Leader of the Opposition in the Senate; and

(c) 2 to be nominated by minority groups or independents.

(4) That the committee may proceed to the dispatch of business notwithstanding that all members have not been duly nominated and appointed and notwithstanding any vacancy.

(5) That the committee elect as chair one of the members nominated by the non-government parties in the Senate.

(6) That the chair of the committee may, from time to time, appoint another member of the committee to be the deputy chair of the committee, and that the member so appointed act as chair of the committee at any time when there is no chair or the chair is not present at a meeting of the committee.

(7) That, in the event of an equality of voting, the chair, or the deputy chair when acting as chair, have a casting vote.

(8) That the quorum of the committee be 5 members.

(9) That the committee and any subcommittee have power to send for and examine persons and documents, to move from place to place, to sit in public or in private, notwithstanding any prorogation of the Parliament or dissolution of the House of Representatives, and have leave to report from time to time its proceedings and the evidence taken and such interim recommendations as it may deem fit.

(10) That the committee have power to appoint subcommittees consisting of 3 or more of its members, and to refer to any such subcommittee any of the matters which the committee is empowered to consider, and that the quorum of a subcommittee be a majority of the senators appointed to the subcommittee.

(11) That the committee be provided with all necessary staff, facilities and resources and be empowered to appoint persons with specialist knowledge for the purposes of the committee with the approval of the President.

(12) That the committee be empowered to print from day to day such papers and evidence as may be ordered by it, and a daily Hansard be published of such proceedings as take place in public.

Question put.

The Senate divided. [10.30 am]

(The President—Senator the Hon. Paul Calvert)

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<td>Majority</td>
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AYES

Allison, L.F. Bartlett, A.J.J. *
Brown, B.J. Fielding, S.
Milne, C. Murray, A.J.M.
Senator GEORGE CAMPBELL (New South Wales) (10.33 am)—At the request of Senator Lundy, I move:

That the Senate—

(a) notes:

(i) the stated opposition of Federal Labor leader Mr Kevin Rudd to forced local government amalgamations in Queensland,

(ii) Mr Rudd’s stated view that increased cooperation, including common purchase practices, can achieve improved efficiencies at a local government level, and

(iii) Mr Rudd’s stated support on 17 May 2007 for local ballots ahead of any proposed non-voluntary local government amalgamation; and

(b) welcomes the support of the Prime Minister (Mr Howard) for Mr Rudd’s position on local democracy.

Question put.

The Senate divided. [10.38 am]

(The President—Senator the Hon. Paul Calvert)

Ayes…………….. 29

Noes…………….. 40

Majority……….. 11

AYES

Bishop, T.M. Brown, B.J.

Brown, C.L. Campbell, G.*

Conroy, S.M.

Carr, K.J. Faulkner, J.P.

Crossin, P.M. Forshaw, M.G.

Fielding, S. Hurley, A.

Hutchins, S.P. Kirk, L.

Ludwig, J.W. Marshall, G.

McEwen, A. Moore, C.

McLucas, J.E. Minchin, N.H.

Parry, S.

Payne, M.A.

Scullion, N.G.

Stephens, U.

Trooth, R.B.

Watson, J.O.W.

Wortley, D.

NOES

Abetz, E. Adams, J.

Allison, L.F. Barnett, G.

Bartlett, A.J.J. Bernardi, C.

Birmingham, S. Boswell, R.L.D.

Boyece, S. Brandis, G.H.

Calvert, P.H. Chapman, H.G.P.

Colbeck, R. Coonan, H.L.

Cormann, M.H.P. Eggleston, A.

Ferguson, A.B. Fierravanti-Wells, C.

Fifield, M.P. Fisher, M.J.

Heffernan, W. Hogg, J.J.

Humphries, G. Joyce, B.

Kemp, C.R. Kirk, L.

Lightfoot, P.R. Ludwig, J.W.

Macdonald, I. Macdonald, J.A.L.

* denotes teller

Question negatived.

LOCAL GOVERNMENT

Senator GEORGE CAMPBELL (New South Wales) (10.33 am)—At the request of Senator Lundy, I move:

That the Senate—

(a) notes:

(i) the stated opposition of Federal Labor leader Mr Kevin Rudd to forced local government amalgamations in Queensland,

(ii) Mr Rudd’s stated view that increased cooperation, including common purchase practices, can achieve improved efficiencies at a local government level, and

(iii) Mr Rudd’s stated support on 17 May 2007 for local ballots ahead of any proposed non-voluntary local government amalgamation; and

(b) welcomes the support of the Prime Minister (Mr Howard) for Mr Rudd’s position on local democracy.

Question put.

The Senate divided. [10.38 am]

(The President—Senator the Hon. Paul Calvert)

Ayes…………….. 29

Noes…………….. 40

Majority……….. 11

AYES

Bishop, T.M. Brown, B.J.

Brown, C.L. Campbell, G.*

Conroy, S.M.

Carr, K.J. Faulkner, J.P.

Crossin, P.M. Forshaw, M.G.

Fielding, S. Hurley, A.

Hutchins, S.P. Kirk, L.

Ludwig, J.W. Marshall, G.

McEwen, A. Moore, C.

McLucas, J.E. Minchin, N.H.

Parry, S.

Payne, M.A.

Scullion, N.G.

Stephens, U.

Trooth, R.B.

Watson, J.O.W.

Wortley, D.

NOES

Abetz, E. Adams, J.

Allison, L.F. Barnett, G.

Bartlett, A.J.J. Bernardi, C.

Birmingham, S. Boswell, R.L.D.

Boyece, S. Brandis, G.H.

Calvert, P.H. Chapman, H.G.P.

Colbeck, R. Coonan, H.L.

Cormann, M.H.P. Eggleston, A.

Ferguson, A.B. Fierravanti-Wells, C.

Fifield, M.P. Fisher, M.J.

Heffernan, W. Hogg, J.J.

Humphries, G. Joyce, B.

Kemp, C.R. Kirk, L.

Lightfoot, P.R. Ludwig, J.W.

Macdonald, I. Macdonald, J.A.L.
Mason, B.J. McGauran, J.J.J.
Minchin, N.H. Murray, A.J.M.
Patterson, K.C. Payne, M.A.
Ronaldson, M. Stott Despoja, N.
Trood, R.B. Watson, J.O.W.

PAIRS
Lundy, K.A. Troeth, J.M.
Sherry, N.J. Scullion, N.G.
Wong, P. Ellison, C.M.

* denotes teller

Question negatived.

INCOME OF UNIVERSITY STUDENTS

Senator STOTT DESPOJA (South Australia) (10.40 am)—I move:

That the Senate—

(a) notes that:

(i) the final report of Australian University Student Finances 2006, published by Universities Australia, includes the following indicators:

(A) 12.8 per cent of students regularly go without food or other necessities due to lack of funds,
(B) 14.5 per cent of full-time undergraduate students who are also working during semester are working more than 20 hours per week,
(c) 40.2 per cent of full-time undergraduate students believe work is having a significant adverse effect on their studies, and
(b) 16.4 per cent of full-time postgraduate coursework students have their applications for income support rejected, and

(ii) the Government has yet to respond to the Employment, Workplace Relations and Education References Committee report, Student income support, tabled on 23 June 2005;

(b) acknowledges that:

(i) university graduates are vital for Australia’s competitiveness, and

(ii) significant financial stress is not conducive to a good education outcome;

(c) welcomes the student income support measures contained in the 2007-08 Budget; and

(d) urges the Government to consider and respond to both the Senate committee report and the recommendations for alleviating student financial stress put forward by Universities Australia, formerly the Australian Vice-Chancellors’ Committee, on 15 March 2007.

Question put.

The Senate divided. [10.42 am]

(The President—Senator the Hon. Paul Calvert)

Ayes.......... 33
Noes.......... 36
Majority....... 3

AYES

Allison, L.F. Bartlett, A.J.J.
Bishop, T.M. Brown, B.J.
Brown, C.L. Campbell, G. *
Carr, K.J. Conroy, S.M.
Crossin, P.M. Faulkner, J.P.
Fielding, S. Forshaw, M.G.
Hogg, J.J. Hurley, A.
Hutchins, S.P. Kirk, L.
Ludwig, J.W. Marshall, G.
McEwen, A. McLucas, J.E.
Milne, C. Moore, C.
Murray, A.J.M. Nettle, K.
O’Brien, K.W.K. Poiley, H.
Ray, R.F. Siewert, R.
Stephens, U. Sterle, G.
Stott Despoja, N. Webber, R.
Wortley, D. 

NOES

Abetz, E. Adams, J.
Barnett, G. Bernardi, C.
Birmingham, S. Boswell, R.L.D.
Boyce, S. Brandis, G.H.
Calvert, P.H. Chapman, H.G.P.
Colbeck, R. Cooman, H.L.
Cormann, M.H.P. Eggleston, A.
Ferguson, A.B. Fierravanti-Wells, C.
Wallarah 2 Coal Project

Senator Nettle (New South Wales) (10.45 am)—I move:

That the Senate—

(a) notes that:

(i) the Wallarah 2 Coal Project planned by Kores Australia, which is owned by the Government of South Korea, proposes to mine coal in the Wyong area of New South Wales using the longwall mining technique,

(ii) the proposed site of the mine in the Dooralong and Yarramalong valleys includes threatened flora and fauna as well as rivers that make up 50 per cent of the Central Coast water catchment and is close to residential areas,

(iii) longwall coal mining is wrecking rivers in New South Wales by cracking river-beds, disturbing aquifers, destabilising sandstone cliff formations, often resulting in cliff collapse and causing serious pollution,

(iv) residents in nearby areas are concerned about the proposed mine’s likely noise pollution, the health effects of coal dust and effect on the local environment, and

(v) burning the coal extracted by the mine will contribute to global warming; and

(b) calls on the Government to reject the proposed coal mine under the Environment Protection and Biodiversity Conservation Act 1999.

Question negatived.

Committees

Economics Committee

Meeting

Senator Nash (New South Wales) (10.45 am)—At the request of the Chair of the Senate Standing Committee on Economics, Senator Ronaldson, I move:

That the Economics Committee be authorised to hold a public meeting during the sitting of the Senate on Thursday, 9 August 2007, from 4.30 pm to 6 pm, to take evidence for the committee’s inquiry into private equity markets.

Question agreed to.

Millennium Development Goals

Senator Barnett (Tasmania) (10.46 am)—I, and also on behalf of Senator Chapman, move:

That the Senate—

(a) acknowledges that 2007 is the half-time progress mark in the global effort to meet the Millennium Development Goals, which aim to halve extreme global poverty by 2015;

(b) notes that, since the Millennium Declaration was signed by the Prime Minister (Mr Howard) and other world leaders, there has been progress with:

(i) an additional 34 million children worldwide afforded the opportunity to enter and complete primary school,

(ii) more people than ever receiving treatment for HIV, and

(iii) 30 of the world’s poorest countries receiving debt cancellation or some reduction;

(c) affirms the positive contribution that Australia has already made, by:
(i) providing up-front, Australia’s 10-year contribution to multilateral debt relief for poor nations,
(ii) increasing Australia’s aid budget to approximately $4 billion by 2010,
(iii) strengthening Australia’s commitment to coordinate aid with other donors and better aligning Australia’s aid with partner countries own priorities and processes, and
(iv) renewing the focus of Australia’s aid on education and health;
(d) notes that, despite significant progress, some of the Millennium Development Goals will not be achieved unless new action is taken and more resources are mobilised;
(e) affirms the work of the ‘Make Poverty History’ and ‘Micah Challenge’ campaigns in raising public awareness and generating new support for international poverty reduction efforts; and
(f) calls on Australia to continue to play its part in supporting the achievement of the Millennium Development Goals through:
   (i) a generous, effective and poverty-focused aid program,
   (ii) a commitment to reducing the unsustainable debt burden of heavily-indebted poor countries,
   (iii) the promotion of good governance in institutions and communities of developing countries,
   (iv) advocacy for fairer international trade rules, and
   (v) addressing the development challenges posed by climate change.

Question agreed to.

COMMITTEES

Regulations and Ordinances Committee

Ministerial Correspondence

Senator NASH (New South Wales) (10.47 am)—On behalf of the Chair of the Senate Standing Committee on Regulations and Ordinances, Senator Watson, I present a volume of ministerial correspondence relating to the scrutiny of delegated legislation for the period June 2006 to June 2007.

Corporations and Financial Services Committee

Report

Senator CHAPMAN (South Australia) (10.47 am)—I present the report of the Parliamentary Joint Committee on Corporations and Financial Services, *Statutory oversight of the Australian Securities and Investments Commission*, together with the *Hansard* record of proceedings.

Ordered that the report be printed.

Senator CHAPMAN—I seek leave to move a motion in relation to the report.

Leave granted.

Senator CHAPMAN—I move:

That the Senate take note of the report.

In presenting this report, at the outset I thank David Sullivan and the other staff of the secretariat of the Joint Standing Committee on Corporations and Financial Services for their assistance with this inquiry and report. It is part of the statutory role which the committee has in regularly conducting oversight hearings with the Australian Securities and Investments Commission. In that context, I would also like to thank the officials of ASIC for their ongoing cooperation with the committee and their participation in particular at our last public oversight hearing with them on 30 November 2006 and at the subsequent hearing.

The report covers a number of issues pertaining to ASIC’s responsibilities. These include: recent property investment scheme collapses, bank conduct and dispute resolution procedures, ASIC’s monitoring of superannuation advice, professional indemnity insurance for planners, ASIC’s review of the electronic funds transfer code of conduct, and ASIC’s investigation procedures.
Unfortunately, the committee’s previous concerns over further high-risk, Westpoint style property scheme collapses have eventuated, leaving investors facing losses of hundreds of millions of dollars. ASIC informed the committee that it will be taking a new approach to such investment schemes. This includes making an assessment of the viability of the business models of existing schemes, intervening to improve the business model of new schemes and their disclosure, and improving investor education. The committee welcomes this initiative but believes it should have been implemented before these predicted collapses eventuated.

The committee has received a number of complaints recently about banking practices, particularly the nonprovision of bank statements. The volume of complaints has raised concerns over the adequacy of banks’ own dispute resolution procedures, though ASIC suggested there was no systemic problem in this area. The committee has asked ASIC to investigate a number of complaints and any further action will be dependent on their response. I note that, since we have requested that of ASIC, they have recently written back to me as chairman of the committee indicating they are going to undertake a number of investigations into this matter. The request by the committee is also undertaken in the context of the inquiry and report that we did on the issue of nonprovision of bank statements and shadow ledgers several years ago.

There does seem to be a regulatory dead end for business loan customers seeking external resolution to their banking disputes, with ASIC expressing a reluctance to investigate possible individual breaches, initially, of the unconscionability provisions of the Corporations Act, preferring to focus on systemic problems. But, as I say, I welcome the recent positive response from ASIC on this matter, which has happened subsequent to our oversight hearing.

In our report, the committee expresses disappointment that ASIC has not committed to conducting another superannuation shadow shopping survey. The last such exercise was effective, identifying widespread instances of inappropriate superannuation advice, and lead to AMP Financial Planning undertaking a full review of advice it had given to its clients. The committee therefore recommends that ASIC conduct another shadow shopping exercise before the end of 2007. However, in that context, it should also be noted that sections of the financial planning industry dispute some of the findings of the previous shadow shopping survey. ASIC should be mindful of these concerns of sections of the industry in this dispute in conducting future shadow shopping exercises.

The professional indemnity insurance regime to cover financial planners is expected to be in place by 1 January 2008, according to ASIC. The committee is concerned that professional indemnity insurance will not be available to all existing financial planning firms and will monitor the implementation of the new regime.

ASIC also told the committee that it did not support a change in the electronic funds transfer code of conduct to shift liability for internet banking scams onto customers.

Finally, a recent Australian National Audit Office report found that an increasing number of complaints of suspected breaches of the Corporations Act had been referred to ASIC but that it had been undertaking fewer investigations on these reports. ASIC told the committee that this lower rate of investigation had been offset by preventative surveillance and that additional government funding would allow it to increase its rate of investigation. Having accepted the recommendations of the Audit Office’s report, the committee encourages ASIC to act on them.
promptly. I commend the report to the Senate and seek leave to continue my remarks.

Leave granted; debate adjourned.

**NATIONAL HEALTH AMENDMENT (NATIONAL HPV VACCINATION PROGRAM REGISTER) BILL 2007**

**CUSTOMS TARIFF AMENDMENT BILL (No. 1) 2007**

**CORPORATIONS AMENDMENT (INSOLVENCY) BILL 2007**

**First Reading**

Bills received from the House of Representatives.

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (10.53 am)—These bills are being introduced together. After debate on the motion for the second reading has been adjourned, I will be moving a motion to have the bills listed separately on the Notice Paper. I move:

That these bills may proceed without formalities, may be taken together and be now read a first time.

Question agreed to.

Bills read a first time.

**Second Reading**

**Senator COONAN** (New South Wales—Minister for Communications, Information Technology and the Arts) (10.54 am)—I move:

That these bills be now read a second time.

I seek leave to have the second reading speeches incorporated in Hansard.

Leave granted.

The speeches read as follows—

**NATIONAL HEALTH AMENDMENT (NATIONAL HPV VACCINATION PROGRAM REGISTER) BILL 2007**

The government is committed to ensuring that Australians can continue to access free vaccines to protect the population against vaccine preventable diseases through the National Immunisation Program (NIP).

Our immunisation system is world class, with immunisation coverage rates above 90% for 12 months old children for the last six consecutive years. The proof of the success of the program can be measured by the large declines in rates of vaccine preventable diseases, and in the case of polio and smallpox, eradication of the diseases from Australia.

Childhood immunisation rates increased from 53% in 1989-90 to over 90% for children fully immunised at 12 months, following introduction of the Government’s Immunise Australia Program.

In 1996, Australian Government expenditure on vaccines was $13 million a year. In 2006/07, vaccine expenditure was $283 million. In April 2007, the National HPV vaccination program commenced with vaccine funding of $475.9 million over five years (from 2006-07 to 2010-11). On 1 July 2007, rotavirus vaccines will be added to the National Immunisation Program with vaccine funding of $124.4 million over five years (from 2007-08 to 2011-12). The Australian Government commitment to vaccine funding in 2007-08 is estimated to be over $443 million.

Along with the announcement of funding for free human papilloma virus vaccine for all Australian girls and women 12 to 26 years of age in November 2006, the government also announced the establishment of a register to support this new initiative. The National Health Amendment (National HPV Vaccination Program Register) Bill 2007 will amend the National Health Act 1953 to enable the establishment and operation of the National HPV Vaccination Program Register.

HPV is a sexually transmitted virus which has many strains, some of which cause cervical cancers and genital warts. HPV is so common in the general population that four out of five people will have HPV at some time in their lives. Only a very small percentage of women who get persistent high risk HPV infection are at risk of developing cervical cancer. This usually takes about 10 years. There is no way of knowing which of the individual women infected will end up developing cervical cancer. For this reason, all girls and young women need to be vaccinated. Vacci-
nation with HPV vaccine is most effective when it is given to an individual before they are likely to be exposed to HPV.

The National Cervical Screening Program has been highly successful in reducing the number of deaths from cervical cancer in Australia, however, there are still about 200 deaths and 700 new cases of cervical cancer in Australia every year.

The HPV vaccine, Gardasil®, which is the only vaccine currently designated for use in the National Immunisation Program, protects against four different types of HPV. Two types, types 16 and 18, are responsible for about 70 per cent of cervical cancers in Australia. The other two types, types 6 and 11, cause about 90 per cent of cases of genital warts. The vaccine is given as a series of three injections over six months.

It is important that all females, whether vaccinated or unvaccinated, continue to get regular Pap smears as the vaccine is not able to prevent all types of HPV that may cause cervical cancer.

In order to vaccinate females before they are likely to become exposed to HPV infection, the ongoing program will target girls in the first year of high school. The government is also funding a two year catch-up program for all girls in high school through schools, and those 18 to 26 through general practitioners and community immunisation clinics. The school program has now commenced in all states and territories.

Vaccination remains voluntary in Australia.

The HPV Register is being established for a number of purposes.

It will contain a database of personal and vaccination information about individuals who participate in the HPV Program. This will allow for statistics to be compiled determining how many persons participate in the HPV Program in relation to the eligible population.

The Register will allow vaccination information to be compared, in the future, to patient outcomes as recorded in Pap smear, cervical cytology or cervical cancer registers. This cross referencing of information will provide information about the effectiveness of the HPV vaccine in reducing cervical cancers. This information will in time inform the future directions of the HPV vaccination program.

In addition to this, the HPV Register will provide a means for contacting participants of the HPV Program to advise them of their vaccination status, certifying the completion of their course of vaccination and informing them if booster doses of vaccine are required.

The Bill also aims to, through the HPV Register, support the health and well being of females by allowing the collection of statistics to inform health authorities, health care providers and the public about the HPV Program. It will enable females or the parents or guardians of female children and health professionals involved in HPV vaccination to be contacted and informed about new developments with the HPV vaccination program.

The Bill makes a provision for a female, or the parent or guardian of a vaccinated person, to make a request in writing, at any time, to have her details removed from the HPV Register and for that request to be complied with as soon as practicable.

The HPV Register will also hold information about general practitioners and registered nurses who are recognised for the purposes of the HPV Register as vaccination providers. Only those vaccination providers will be given access to the HPV Register to allow information to be entered on the register or for checking the vaccination status of a female to whom they are administering a HPV vaccine.

This Bill will strengthen the government’s commitment to the health of Australians by further improving on Australia’s world class immunisation system.
Commodity Description and Coding System that forms the basis of Australia’s Customs Tariff.

As part of this review the chemical “binapacryl” was classified under its own subheading. The separate identification of this chemical is required under the Rotterdam Convention on the Prior Informed Consent Procedure for Certain Hazardous Chemicals and Pesticides in International Trade, to which Australia is a signatory.

Schedule 1 of the Bill will repeal the current subheading for binapacryl and create a new subheading for this chemical. This amendment comes as a result of further information received from the World Customs Organization acknowledging that binapacryl was originally classified incorrectly in the review of the Harmonized System.

This measure will take effect on the day the Act receives the Royal Assent.

Also, as part of the 2007 review, the text of the new subheading created for microbiological culture media referred to “prepared culture media for the development or maintenance of viruses and the like” and applied a duty rate of 5% to these goods. However, existing arrangements in the Australian Customs Tariff provided for a rate of customs duty of Free for these culture media.

Schedule 2 of the Bill will amend the text of this subheading to remove the reference to culture media for viruses. This amendment will ensure that the rate of customs duty of Free will continue to apply to prepared culture media for the development or maintenance of viruses.

This measure was implemented via Customs Tariff Notice in December 2006 and then included in Customs Tariff Proposal No. 1 of 2007, which was tabled in the House of Representatives on 15 February 2007. The measure contained in this Bill will take effect from 1 January 2007.

CORPORATIONS AMENDMENT (INSOLVENCY) BILL 2007

The Corporations Amendment (Insolvency) Bill 2007 contains an integrated package of reforms to improve the operation of Australia’s insolvency laws.

Australia’s corporate insolvency regime is a critical part of our economic infrastructure. Insolvency law underpins the system of financial and contractual relationships that enable trade and commerce to take place.

A modern credit-based economy requires predictable, transparent and affordable means for enforcing secured and unsecured credit claims. A well-designed insolvency system helps business obtain finance more easily, and at a lower cost.

The reforms aim to improve the efficiency and the cost effectiveness of insolvency processes, strengthen the rights of creditors, enhance their capacity to participate in the insolvency process and maximise their returns.

They aim to minimise the economic and social costs resulting from corporate failure. Such costs can include the disruption of trade and commerce, the loss of employment, loss of capital, damage to suppliers and customers, and the expenses of the insolvency process itself.

The reforms also seek to ensure that the corporate insolvency regime contributes to an efficient and informed market without imposing costly new regulatory requirements on company directors, creditors or practitioners.

This is the first time that this area of law has been comprehensively updated since 1992. Australia’s insolvency framework is still well-regarded internationally, with jurisdictions such as the United Kingdom using our laws as a model for reform. However a number of public inquiries into the corporate insolvency framework, in particular by the Corporations and Markets Advisory Committee (CAMAC) and by the Parliamentary Joint Committee on Corporations and Financial Services, have identified opportunities to update and fine-tune the framework.

The Government has considered these recommendations, and after consulting with industry through the Insolvency Law Advisory Group and subsequently through the public release of exposure draft amendments in November 2006, has responded by introducing this Bill to Parliament today.

The reforms in the Bill have been developed around four themes: strengthening creditor protections; deterring misconduct by company officers; enhancing the regulation of insolvency prac-
tioners; and fine-tuning the voluntary administration procedure.

**Strengthening Creditor Protections**

The Bill includes a number of measures that have the specific aim of strengthening the protection of employee entitlements. It will make it mandatory for a deed of company arrangement to preserve the priority available to employee creditors in a winding up, unless the employees agree to waive this priority or the court makes an order.

It will clarify the treatment of the Superannuation Guarantee Charge (SGC) in insolvency. Under the Corporations Act, employee entitlements already rank highly in the distribution of the property of an insolvent company. However, under the current law there is some uncertainty about the standing of SGC in different forms of insolvency proceedings. The proposed measures will therefore clarify the status and priority of the SGC in insolvency. They will give SGC the highest priority, along with wages and superannuation, that employee entitlements enjoy under the law.

These measures will significantly improve the prospect of recovering outstanding superannuation entitlements if an employer becomes insolvent. They will address a source of cost and uncertainty for practitioners in many proceedings.

The Bill also includes measures to ensure that creditors are in a position to make an informed decision about key proposals, such as whom to appoint as an administrator and what they will be paid. Administrators will be required to disclose certain relationships before taking an appointment. Insolvency practitioners will be required to explain the basis for their remuneration proposals when seeking approval. These reforms will address some of the most common public criticisms of our insolvency framework.

The Bill includes a number of measures intended to increase the efficiency and reduce the cost of insolvency processes. Amendments in the Bill remove redundant meeting requirements, allow greater use of modern communication technology for communication with creditors, and reduce costly advertising requirements.

The reforms facilitate the winding up of companies in corporate groups. Pooling will permit creditors to agree, or a court to make an order, that the liquidation of related companies should be combined and managed as if they were one company. This facility will allow scope for significant cost reductions in these circumstances, for example through more streamlined administration, consolidated accounts, and removing unnecessary duplication such as for meetings and minutes.

**Deterring misconduct by company officers**

The Government has already implemented some enhancements to its insolvency law programme. Most notably, the Government has allocated $23 million over four years for the assetless administration fund and complementary enforcement programmes. The assetless administration fund finances preliminary investigations by expert liquidators, of companies selected by ASIC that have been left insolvent with little or no assets, when it appears to ASIC that it may be able to take enforcement action as a result of the investigation and reports.

In support of ASIC’s important enforcement work in this area, the Government will legislate to restore the longstanding position that the privilege against exposure to a penalty does not apply in proceedings where ASIC is seeking disqualification or banning orders and no other penalty.

Banning and disqualification orders, and orders to cancel or suspend a licence under the Corporations Act, are important tools for deterring corporate misconduct. They serve a protective function, by allowing the removal of unwanted participants from the market. One of their main benefits is that they allow for an expeditious response to corporate misconduct.

This reform will provide significant assistance to ASIC’s work in discouraging company misconduct, including unlawful ‘phoenix company’ activity.

**Enhancing the regulation of insolvency practitioners**

To enhance the regulation of insolvency practitioners, the current prohibition on inducements for the referral of work will be extended to directors and other persons.

Creditors will be provided the power to appoint a new person as liquidator if the company proceeds to liquidation after an administration or deed of
administration ceases. This will allow creditors to appoint a new practitioner to investigate the conduct of the previous directors and administrator, if they are concerned about the performance or independence of the administrator.

The registration regime for liquidators will be updated, by introducing more regular reporting requirements and a requirement to hold adequate insurance.

The reforms will also introduce greater flexibility into the processes of the Companies Auditors and Liquidators Disciplinary Board, or CALDB, expediting disciplinary matters in this area. I note that the High Court has recently dismissed appeals which argued that the CALDB powers to suspend a liquidator were unconstitutional.

Fine-tuning the voluntary administration procedure

After more than ten years’ experience with voluntary administration, a number of amendments are included to improve and fine-tune this procedure. The reforms will enhance efficiency and clarify the operation of the administration provisions.

The most important changes concern the timing of meetings, the quality of reporting to creditors, and the facilitation of fund-raising in administration.

The Bill also grants administrators new powers to sell property subject to a retention-of-title clause, pledge or lien, in the ordinary course of business. These new powers will assist in the rescue of viable companies, for the benefit of creditors and other stakeholders.

Response to PJC Inquiry into the Exposure Draft Bill

As I mentioned earlier, this Bill also reflects the adoption by the Government of many of the PJC’s 2004 recommendations. A small number of recommendations have not been adopted, on the basis that a strong case has not been made at this time.

The PJC initiated an inquiry into the exposure draft Bill, and tabled its report on 29 March 2007. To the extent that these recommendations mirrored those made by the PJC in 2004 that the Government did not earlier accept, the Bill has not been amended.

In relation to the prospect for future law reform in the area of corporate insolvency, I note that a number of new issues were identified by stakeholders in drafting this Bill. Some of these have been referred to CAMAC for further advice. In addition, CAMAC is currently considering the implications of the Sons of Gwalia decision and the issue of long tail liabilities.

In conclusion, I note that the current Bill has been developed after extensive consultation. The Government appreciates the assistance of members of the Insolvency Law Advisory Group, and the Insolvency Practitioners Association of Australia, in the preparation of the Bill. The Bill was exposed for public comment. Under the Corporations Agreement between the Commonwealth and the States and Territories, the Bill needed to be approved by the Ministerial Council for Corporations. The Ministerial Council has approved the Bill.

Debate (on motion by Senator Coonan) adjourned.

Ordered that the resumption of the debate be made an order of the day for a later hour.

Ordered that the bills be listed on the Notice Paper as separate orders of the day.

SUPERANNUATION LEGISLATION AMENDMENT (TRUSTEE BOARD AND OTHER MEASURES) (CONSEQUENTIAL AMENDMENTS) BILL 2007

First Reading

Bill received from the House of Representatives.

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.55 am)—I move:

That this bill may proceed without formalities and be now read a first time.

Question agreed to.

Bill read a first time.
Second Reading

Senator COONAN (New South Wales—Minister for Communications, Information Technology and the Arts) (10.55 am)—I move:

That this bill be now read a second time.

I seek leave to have the second reading speech incorporated in Hansard.

Leave granted.

The speech read as follows—

The Superannuation Legislation Amendment (Trustee Board and Other Measures) (Consequential Amendments) Bill 2007 proposes amendments which will update a range of legislation, largely as a consequence of other legislative changes.

The Bill amends 30 Acts as a consequence of the establishment of the Public Sector Superannuation Accumulation Plan and the consolidation of the governance arrangements for the superannuation schemes for Australian Government employees.

The Public Sector Superannuation Accumulation Plan, the PSSAP, was established on 1 July 2005. It replaced the Public Sector Superannuation Scheme, the PSS, as the main superannuation scheme for new Australian Government employees and office holders.

Many Commonwealth Acts include references to the PSS when dealing with the terms and conditions of employment for persons engaged under those Acts. The Bill proposes amendments to those Acts to also include a reference to PSSAP where appropriate, reflecting the likelihood that many future employees and office holders engaged under those Acts could be PSSAP members.

The amendments include provisions intended to emphasise the requirement of the Superannuation Act 2005 that PSSAP contributory members may not be retired on invalidity grounds without the prior approval of the scheme’s trustee. Similar arrangements also apply for employees who are members of the PSS and the Commonwealth Superannuation Scheme, the CSS, which was the main Australian Government superannuation scheme prior to the PSS.

Amendments are also proposed to a number of Commonwealth Acts to reflect the consolidation of the governance arrangements for the three major superannuation schemes for Australian Government employees – the CSS, the PSS and the PSSAP. Since 1 July 2006, the Australian Reward Investment Alliance, or ARIA, has been the trustee for the three schemes. The Superannuation Legislation Amendment (Trustee Board and Other Measures) Act 2006 transferred all the functions of the CSS Board to the PSS Board, which was already the trustee for the PSS and the PSSAP. The PSS Board was renamed as ARIA and the CSS Board was abolished. The Bill makes a number of technical amendments to reflect these changes.

From 1 July 2008 the Superannuation Guarantee requirements will be changed to simplify the earnings base of an employee for Superannuation Guarantee purposes. This will replace the existing arrangements which allow earnings bases that existed before 21 August 1991 to be used to calculate an employer’s Superannuation Guarantee obligations in respect of an employee. From 1 July 2008 those employers will be required to calculate their Superannuation Guarantee liability using an employee’s ordinary time earnings, in line with the requirements applying to other employers.

Contributions and benefits for Australian Government employees whose superannuation is provided under the Superannuation Act 1976 and the Superannuation (Productivity Benefit) Act 1988 are currently calculated using an earnings base that existed before 21 August 1991. The Bill includes amendments to allow those Acts to provide minimum benefits that will comply with the changes to the Superannuation Guarantee earning base from 1 July 2008, and any future changes to the Superannuation Guarantee.

The amendments to the Superannuation Act 1976, in respect of the CSS, provide for the necessary changes to be made to the CSS by regulation. Those changes will be made once regulations have been made under the Superannuation Guarantee (Administration) Act 1992 to apply the 2008 changes to the earnings base to defined
benefit schemes like the CSS. This regulation power is necessary to ensure that the changes to the CSS can be in place by 1 July 2008. The changes made to the CSS by regulation will subsequently be inserted into the Superannuation Act 1976 when an opportunity arises after that time to make amendments to that Act.

ARIA makes periodic determinations of interest in respect of the CSS and the PSS to be applied to members’ accounts. Those rates are published on the scheme website, generally on the business day immediately after the rates become effective. Although these instruments are exempt from the Legislative Instruments Act 2003 the interest determinations for the CSS are required to be gazetted.

The Bill amends the Superannuation Act 1976 to remove the requirement that CSS interest rate determinations be gazetted. This will result in consistent arrangements for CSS and PSS interest determinations. ARIA has given an undertaking that the interest rates will continue to be published on the CSS website.

The remaining changes in the Bill are of a technical nature. For example a number of Acts which make superannuation arrangements for Australian Government employees and Members of Parliament are to be amended to clarify that certain instruments made under those Acts are subject to the Legislative Instruments Act 2003 and continue to be subject to parliamentary scrutiny and possible disallowance.

Debate (on motion by Senator Coonan) adjourned.
Outline of measures in the Bill

Today the Government introduces a Bill to improve the operation of the Trade Practices Act in relation to small business. The Government acknowledges and appreciates the contribution that small business makes to the Australian economy. There are almost 1.88 million small businesses in Australia. The small business sector provides more than 3.7 million jobs, and contributes 39 per cent of Australia’s economic production.

The Bill covers three key areas of reform. Firstly, the Bill will provide for the creation of a second Deputy Chairperson position at the ACCC.

Secondly, the Bill makes a number of amendments to section 46 to improve and clarify the operation of the provisions of the Act relating to the misuse of market power. It will also make consequential amendments to Part XIB and Part 1 of the Schedule to the Trade Practices Act, to ensure continued consistency between section 46 and the Schedule version of the Act which applies to the States and Territories.

Thirdly, it amends section 51AC to extend and clarify the operation of the unconscionable conduct provisions of the Act. The Bill also amends the Australian Securities and Investments Commission Act 2001, duplicating the changes made by the Bill to section 51AC in relation to financial products and services.

Schedule 1: Second Deputy Chairperson for the Australian Competition and Consumer Commission

Schedule 1 of the Bill provides for the creation of a second Deputy Chairperson position for the ACCC, and allows for the effective operation of the ACCC with that additional position.

The creation of the additional position has no impact on existing appointments to the ACCC, and the Bill limits the number of concurrent appointments to the position of Deputy Chairperson to two positions.

The Government intends for the position to be filled by a candidate who is experienced in small business matters. On implementation, the Government will consult with the States and Territories on its preferred candidate for the position, in accordance with the requirements of the Conduct Code Agreement.

Schedule 2: Misuse of market power

Schedule 2 of the Bill amends section 46 of the Trade Practices Act, as well as making amendments to related provisions of the Act.

Section 46 prohibits corporations with a substantial degree of market power from using that power for certain purposes proscribed under subsection 46(1). The ‘market power’ referred to is generally described as the ability of a firm to behave in a manner that is persistently different from the behaviour of other firms in a competitive market. An example of the existence of market power might be the ability of a firm to raise its prices above the ordinary supply cost, without losing customers to its rivals.

Leveraging market power

At present, section 46 does not explicitly state whether the market in which substantial market power is misused must be the same as the market in which the corporation has substantial market power. Some submissions to the Senate Committee raised concerns about this lack of clarity, and the Committee recommended that section 46 be amended.

The Government accepted this recommendation. It is appropriate for section 46 to proscribe the leveraging of substantial market power from one market into another. Accordingly, the Bill amends section 46 to provide that a corporation must not take advantage of a substantial degree of market power, either in the market in which the power is held or in any other market.

Coordinated market power

The Act recognises that corporations may obtain market power in their own right, or through interactions with other corporations in the market. For example, subsection 46(2) requires that related subsidiaries or holding companies in the same corporate group be taken into account when assessing market power.

The Committee recommended that section 46 go further, to take account of a firm’s interactions with corporations not in the same corporate group or related to the firm. The Government agrees that section 46 should be amended. The Bill provides that, in assessing whether a corporation has ‘a substantial degree of power in a market’, a court may take account of any market power the
corporation has that results from agreements with others, or covenants that the corporation is bound by or entitled to the benefit of.

‘Substantial degree of power’ is not a threshold of substantial control

The Senate Committee recommended that section 46 be amended to clarify that the threshold of ‘a substantial degree of power in a market’ is not a threshold of substantial control. The Government will be making several amendments to clarify the threshold.

Firstly, the Bill clarifies that the threshold of ‘a substantial degree of power in a market’ can be satisfied even though the corporation does not substantially control the market.

Secondly, the Bill clarifies the threshold to state that a corporation can have ‘a substantial degree of power in a market’ even though it does not have absolute freedom from constraint by the conduct of its competitors or persons to whom or from whom it supplies goods or services. Finally, the Bill makes it clear that more than one corporation may have a substantial degree of power in a market.

Below-cost pricing

The Government will be making amendments to the Trade Practices Act to provide further guidance to courts in relation to predatory pricing. Predatory pricing refers to a particular type of misuse of market power, whereby a firm deliberately sells at unsustainably low prices in an attempt to drive its competitors out of the market. The firm may follow this by greatly increasing its prices in an attempt to recoup the losses it suffered from selling at the unsustainable price.

Predatory pricing harms competition and consumers. However, it should be distinguished from legitimate, pro-competitive conduct, such as vigorous discounting, which clearly benefits consumers.

To this end, the Bill amends section 46 to emphasise that courts may take into consideration a sustained period of below-cost pricing when determining whether a corporation has misused its market power. The Bill also provides that courts may take into account the corporation’s reasons for engaging in below-cost pricing. The corporation’s reasons for engaging in below-cost pricing may indicate whether the corporation had one of the prohibited purposes in section 46(1). I note that courts have in the past been able to examine below-cost pricing when determining whether a corporation has misused its market power under section 46. The amendments in the Bill clarify that existing ability. The amendments do not direct that a Court must have regard to below-cost pricing when considering a breach of section 46. Nor do they limit the Court to considering below-cost pricing when determining whether a corporation has misused its market power.

Consequential amendments to Part XIB and Part 1 of the Schedule

Schedule 2 of the Bill also makes a series of amendments to Part XIB and Part 1 of the Schedule to the Trade Practices Act as a consequence of the changes to section 46.

Part XIB of the Act provides a telecommunications-specific prohibition on the misuse of market power. The Bill ensures continued consistency between section 46 and section 151AJ of Part XIB, in relation to the leveraging of market power, coordinated market power, the threshold of ‘a substantial degree of power in a market’, and predatory pricing.

The Bill also amends the version of section 46 found in Part 1 of the Schedule to the Trade Practices Act. This is the version that applies throughout the States and Territories by virtue of application legislation passed by the States and Territories, in accordance with the 1995 Competition Code Agreement.

Schedule 3: Unconscionable conduct

Schedule 3 of the Bill amends section 51AC of Part IVA of the Trade Practices Act. It also makes amendments to related provisions of the Austra-

Part IVA of the Trade Practices Act prohibits corporations from engaging in unconscionable conduct in their transactions with both consumers (under section 51AB) and business consumers (under section 51AC). Section 51AC was inserted into the Act by the Trade Practices Amendment (Fair Trading) Act 1998 and was duplicated in the ASIC Act in relation to financial services, as part of the Financial Services Reform (Consequential Provisions) Act 2001.

In its report, the Senate Economics References Committee identified several issues in its consideration of the unconscionable conduct provisions of the Trade Practices Act. It concluded that section 51AC is a relatively new section, which has not yet had time to develop a significant body of jurisprudence. However, the Committee did accept that the case had been made for some minor changes to section 51AC.

$3 million threshold

The protection offered to business consumers by section 51AC is subject to two limitations. Firstly, listed public companies are not protected by section 51AC. Secondly, the section does not apply where the supply or acquisition of goods is at a price greater than $3 million.

The Government did not accept the Committee’s recommendation that the price limit be repealed. At the time of its enactment in 1998, the Government intended to limit the protection afforded by section 51AC to small businesses. This was achieved by limiting access to the protection to prices not exceeding $1 million, later increased to $3 million in 2001.

Complete removal of the price cap would broaden the focus of the provision in a way unintended by the Government. Instead, the Bill increases the price cap under section 51AC to $10 million, as recommended in the Government Senators’ minority report.

Unilateral variation of contracts

When considering whether a corporation has engaged in unconscionable conduct in business transactions, a court may have regard to a non-exhaustive list of factors under section 51AC. Subsections 51AC(3) and 51AC(4) provide lists that are tailored for business consumers that either supply or acquire the goods or services in question.

Unilateral variation clauses in a contract permit one party to vary some aspect of the contract without consulting the other party. In line with the findings of the Senate Committee, the Government agrees that the imposition or utilisation of unilateral variation clauses may be an indication that unconscionable conduct has occurred. However, the mere existence of a unilateral variation clause does not always indicate that unconscionable conduct has occurred—in some cases these clauses may be indicative of healthy competition.

Accordingly, the Bill amends subsections 51AC(3) and 51AC(4) to explicitly provide that a court may consider unilateral variation contract terms, when determining whether there has been a breach of section 51AC. It does not direct the court to consider such clauses.

Consequential amendments to the Australian Securities and Investments Commission Act 2001

The ASIC Act applies the unconscionable conduct rules of section 51AC of the Trade Practices Act to the supply and acquisition of financial services. To ensure continued consistency between the consumer protection provisions of the ASIC Act and the Trade Practices Act, the Bill duplicates the changes made to section 51AC in section 12CC of the ASIC Act.

Conclusion

The Bill implements a number of important Government announcements in relation to the Trade Practices Act and the protection of small business. It comes about as a result of extensive discussions with key small business groups. I would like to take the opportunity here today to pay tribute to the work of the Minister for Small Business and Tourism, Fran Bailey and the Leader of the Nationals in the Senate, Senator Ron Boswell for their strong advocacy for small business and their interest in these matters. This Bill improves the overall effectiveness of the Act in protecting competitive processes in Australian markets. Importantly, it makes particular enhancements to the Act in relation to the legitimate interests of small business. I commend the Bill to the House.
Debate (on motion by Senator Coonan) adjourned.

COMMITTEES
Employment, Workplace Relations and Education Committee

Report

Senator PARRY (Tasmania) (10.57 am)—On behalf of Senator Troeth, the Chair of the Senate Standing Committee on Employment, Workplace Relations and Education, I present the report Workforce challenges in the transport industry, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.

Senator PARRY—I seek leave to move a motion in relation to the report.
Leave granted.

Senator PARRY—I move:
That the Senate take note of the report.
I seek leave to continue my remarks later.
Leave granted.

Senator GEORGE CAMPBELL (New South Wales) (10.58 am)—I wish to make some comments in relation to the tabling of the report Workforce challenges in the transport industry. This inquiry commenced on the basis of looking at employment opportunities in the industry and the issue of shortages of skilled labour required by the industry. In terms of the period that this inquiry covered we only had a very superficial look at what is a very complex industry, with a number of different forms and modes of transport across our country. One of the startling factors that came out of the inquiry, which seems to be agreed upon by all sectors of the industry, including the department, is that our requirements for transport will double by the year 2020. That poses a very significant challenge to this parliament and to this country to commence to put in place policies in this industry to ensure that both the modes of transport are right and that there is a labour force in place to be able to manage those modes and operate those modes of transport by the year 2020.

The government has given the Australian Logistics Council the task of examining a draft report prepared by the department of transport that looks at transport requirements for the next five years and marshalling the responses from the industry to that draft report. It is essential, in our view, that they not just look at the next five years but start to examine the requirements for the next 20 years. There is a major challenge in this industry to do with training, particularly for truck drivers, and there are a whole range of issues, some of which are complex, that need to be addressed in that area. I am sure my colleagues Senator Sterle and Senator Hutchins will address that.

But there is also the challenge of looking at what direction we go in to face the 2020 challenge that faces this industry. Do we focus on building more rail infrastructure and seek to shift a greater proportion of our goods by rail than by road? Do we increase road transport? Do we look at using the natural infrastructure that exists all around the Australian coast and shift more of our goods by sea? We do not need to build roads 100 miles away from the coast because there are natural sea lanes that may help to satisfy our transport needs. When I was in Brisbane for another committee inquiry, I took the opportunity to talk to the Port of Brisbane Authority. They are doubling the size of the Port of Brisbane right at this moment. A huge amount of work is being undertaken to develop the port.

One piece of information I was able to glean from that visit is that something like 80 per cent of all containers that go through the port are delivered within 100 miles of the
Port of Brisbane. That raises real issues about whether you move goods by rail or by truck. They said there is a major issue in Brisbane because of the interface between goods trains and passenger trains on metropolitan lines. The passenger trains obviously take precedence, and that is an inhibiting factor for the movement of goods by train. They also say that the size of container ships is going to double within the next five years—in fact, they are being built now. So, instead of ships carrying 3,000 or 4,000 containers, they are going to be carrying 8,000 or 9,000 containers. They said that, even if you were able to piggyback containers by rail, the most you would be able to add is another 230 containers.

So the intermodal interface is getting out of alignment because of the technology that is now being applied on ships and in other parts of the industry. That needs to be looked at. It is a major challenge that has to be faced up to. If we do not get it right, it is going to have a substantial impact upon the Australian economy and our capacity to increase our efficiency and productivity and to be able to match it with the rest of the world. I make the point because I think we need to see this report not as the conclusion of the transport issue but as a starting point to focus on the policy options that may be available to match the challenge into the year 2020. Those issues need to be addressed now. There are only eight or nine recommendations in the report, but they are key recommendations that need to be treated seriously. Interestingly enough, this is a unanimous report of the committee. It has the support of senators on the government side and senators on this side. It should be treated seriously by this government and looked at seriously by the department. Initiatives should be taken to ensure that the issues raised in the report start to be addressed in terms of building the physical and human infrastructure that is going to be essential to meet our transport needs in 2020.

Senator HUTCHINS (New South Wales) (11.05 am)—It is a pleasure to follow Senator Campbell and his comments in relation to the report Workforce challenges in the transport industry. As he outlined, the report is unanimous. It did take a few visits and inspections to highlight to a number of people on the committee the skills shortage in the transport industry—and not in just road transport. I compliment the committee chair, Senator Troeth, for her excellent conduct of the inquiry and for putting herself out to go to a variety of places to see how transport operates in this country. Of course, I also compliment the officers of the committee, John Carter and Monika Kruesmann.

As Senator Campbell said, the report is unanimous—and I think that is unique for the Senate Standing Committee on Employment, Workplace Relations and Education. Most of the reports, as I recall, have not been unanimous—in fact, there have been significant minority reports in relation to a number of the inquiries conducted by this committee. As Senator Campbell outlined, this is just the beginning and should not be seen as a panacea for the difficulties that employers are facing with skills shortages in the transport industry. I am sure that Senator Sterle will comment on this as well. To a large degree, particularly in the road transport industry, they have no-one to blame but themselves.

The organisations that represent workers in that industry—whether it is the TWU, the RBTU or others—have highlighted for some time the difficulties that are being faced as a result of these skills shortages. What is the answer of these companies to those shortages? They think there are two answers. Firstly, they think it is good to rort the system at the moment for traineeships and just train existing employees. Most of the money
that goes to these traineeships goes to existing employees; 90 per cent of the money that these companies have access to goes to people already on their payroll. They do not go down any avenue to make sure that they have at least the 4,500 entrants that are required to come into the industry each year. So who is to blame? They are, themselves. What is their other solution? Their other solution is to try to import truck drivers through the use of the 457 visa, which is also commented on in the report. We must say that we do not recommend that this option be considered.

Whilst conducting the inquiry, we saw some scary things occurring, including the inability of the road transport industry in particular to invest in the future. Senator George Campbell talked about the intermodal changes in road, rail et cetera. We went to Australian National in Melbourne, and they told us that they cannot get men to drive trucks for car carrying, because they are not available—they are just not there—so they have to fit out trains to cart cars across from the west to the east. It is not any cheaper to put it on rail and it is not cheaper to go by road—it is almost neutral—but there are no men or women out there to do this work. I hope that the government and the department look at the recommendations in the report. They were considered seriously by the members of the committee. We see this as one way to point the government and the industry in the direction in which to deal with the pending skills shortage in the road transport industry.

Senator STERLE (Western Australia) (11.10 am)—I would like to add my comments on the committee’s inquiry into workforce challenges in the transport industry. I support the comments of my colleagues Senator Hutchins and Senator George Campbell. Like Senator Hutchins, I have an undying interest in the transport industry. Senator Hutchins and I are the only truck drivers represented in the Senate, and we are quite proud of that. We travelled the country with the support of Senator Troeth, the chair, who, I must add, did a wonderful job in chairing the committee. We had numerous submissions. Sadly, the submissions were all the same: ‘What have we got ourselves into?’ ‘It’s everybody else’s fault.’ ‘How can you, the government, or maybe a new government, help us out?’

A lot of positives came out of this inquiry, but, very sadly, I have to continue my comments along the lines of those of Senator Hutchins. For years and years, Senator Hutchins and I banged our heads against brick walls, arguing about the coming skills crisis that would hit the transport industry. Where will we find tomorrow’s truck drivers? Where will we find tomorrow’s forklift drivers, receival staff, even clerical and managerial staff, let alone mechanics, tyre fitters and auto-electricians? And there are the problems faced by the maritime industry and, obviously, the aviation and rail industries. As Senator George Campbell said, a raft of about eight recommendations came out of this committee, and we fully support them. Wonderfully, they were agreed to by both sides of this chamber, but we just cannot stop there.

I think that one of the saddest indictments in the transport industry is when we talk about traditional trades and trade skills. I have to say that it is very important to have the mechanics, tyre fitters, licensed aircraft maintenance engineers and the like, but who the heck is going to drive the trucks, trains and forklifts tomorrow? If you look in the West Australian newspaper, in my fine state of WA, every Saturday you will find column after column of: ‘Wanted: truck drivers.’ They are just not out there. It is not good enough to sit back on both sides of this chamber and admit that, by the year 2020,
our transport task will double. Crikey—I would hate to think what it will be like by the time we get to 2020, unless we start acting now, from today.

I would also like to add that there are wonderful arguments out there about road versus rail, aviation and maritime. This comes from a transport operator and someone who has a vested interest in Australia’s future transport needs: there is a role for all modes of transport. Let us not make any mistake: what rail does, it does very well; what the road industry does, it does very well as well. But we must acknowledge this point: apart from a newborn baby, I cannot think of anything in Australia that is not delivered on the back of a truck. Whether we like it or not, we have to have infrastructure: roads, ports and railway lines. We could have the most efficient railway lines in the world running between our great states and cities, but the goods have to get to the rail yard on the back of a truck. I know that our industry—I still say ‘our industry’, proudly—is not the most popular industry. As is highlighted in the report, the work is done mostly in the wee small hours. When we sit down as Australians and open up our newspaper and our packet of Weeties or pop the bread into the toaster, we do not give any thought to how those goods got to our tables. We know they came from Woolies or Coles, but how did they get there from the farms, the factories and all sides of manufacturing?

I would like to add a few more comments before I conclude. As Senator Hutchins said, sadly, the transport industry wants to make up every excuse for why it has got itself into this pickle. Senator Hutchins is correct. I was part of the implementation of the existing employee traineeships in Western Australia back in 2000, alongside the employers’ representatives from the Transport Forum, the peak body representing transport employers in Western Australia. About $8 million was injected into training, which we supported fully. We supported it fully for a number of reasons. Firstly, we saw the impending crisis coming. Secondly, we wanted to have transport workers’ skills recognised. Up until the last couple of years, transport workers, whether they be truck drivers, receivals staff, forklies, freezer workers or whatever, were never classified as skilled workers; they were never classified as tradespeople.

The committee had a number of submissions from people representing large transport who had the audacity to sit there and say that because of the crisis that the industry has got itself into—using all this money to train existing employees, as Senator Hutchins said—they have not invested one single cent in training new trainees or in apprenticeships. I will tell you why they have not: because of the fear that, if they had to recognise transport workers as skilled workers or tradespeople, lo and behold, the truckies, the forklies and the receivals staff might ask to be paid appropriately. But I will save that debate for another day.

I would like to thank Dr John Carter and Monika Kruesmann, from the committee. They were absolutely valuable to the committee and they assisted us all the way. I would also like to add that the situation we are faced with in transport is not going to be resolved by the two main practices that are happening in the transport industry today. One is poaching. The transport industry cannot help itself. One transport company will let the other companies do a little in-house training that is not recognised through any skills process and then will poach those drivers with the promise of an extra rupiah per hour, or whatever it may be. That is not going to solve the problem. We must have quality training. As a government, through the department and all facets of the transport industry—employers and employees alike—we must offer a skilled framework. We must
offer recognition of those skills. If we have to call them tradespeople, that will be a fantastic day for transport workers in this country.

We cannot go to sleep now. To use a trucking colloquialism, the last thing we want to do is to fall asleep at the wheel. The ball has started rolling. It is not just about bricklayers, carpenters, gasfitters and plumbers. Transport employs hundreds of thousands of Australians, directly and indirectly. We cannot take our eyes off the ball. This must be only the first footprint in what we do to meet Australia’s transport needs going into the future. I commend the report to the Senate.

Senator Barnett (Tasmania) (11.17 am)—I rise to speak on the same topic: the report by the Senate Standing Committee on Employment, Workplace Relations and Education entitled Workforce challenges in the transport industry. Firstly, I want to thank all members of the committee and, in particular, the chairman, Senator Judith Troeth, for her leadership. I note the camaraderie and the support that we had from all sides on that inquiry. It was illuminating for me. I learnt a great deal. I acknowledge other members of the Senate, including Senator Sterle, who have a special interest in this matter. It is part of his history and experience. The committee went to various parts of Australia. As I said, I learnt a great deal from the evidence of the witnesses and the various submissions that were presented to the committee.

I note the chairman’s comments in the preface about the support of all members of the Senate committee for this report and the summary of findings and recommendations. Before noting the important findings and recommendations, I want to acknowledge John Carter, the secretary of the committee, and Monika, for their work and their team. I thank them for their support over the many months.

I want to highlight that, in the report, the committee found that there are workforce challenges facing every sector of the transport industry—roads and railways, shipping and aviation. The report notes:

To varying degrees, industry finds difficulty attracting and retaining employees, and particularly young employees, whose entry into the industry is necessary to replace a workforce which is ageing and looking to retirement. Younger workers are deterred by poor industry image, more attractive career prospects in other industries (particularly mining), and lack of coordination and appropriateness of training regimes.

These problems add further operational pressure to employers who are already facing tight profit margins, and who may sometimes struggle under complex regulatory and compliance regimes. A particular difficulty here relates to the variations in transport related legislation and regulation between different jurisdictions.

That was patently clear at the various committee meetings that we had. The report goes on:

The need to address these workforce challenges is becoming urgent in the face of estimates that the national freight task will double by 2020. That is an amazing statistic and a concerning one. The report continues:

There is a critical relationship between Australia’s reliance on commodities for economic growth, a successful commodities industry and effective transport and logistics. It is vital that these workforce challenges, which may compromise the transport industry’s effectiveness, be addressed.

Some action has been taken, by both industry and government stakeholders, and the committee commends this progress. However, much work remains to be done, and the recommendation of this report may serve as a guide in where effort, investment and policy focus should be directed at the highest priorities.
I support the report and commend it to the Senate.

Question agreed to.

Legal and Constitutional Affairs Committee
Reference

Debate resumed from 8 August, on motion by Senator Nettle:

That the following matter be referred to the Legal and Constitutional Affairs Committee for inquiry and report by 15 October 2007:

All aspects of the detention and release of Dr Mohamed Haneef, including:
(a) the source and veracity of information upon which decisions were made;
(b) the actions of the Minister for Immigration and Citizenship (Mr Andrews), including his overriding of the Brisbane Magistrate’s Court decision to grant bail to Dr Haneef;
(c) the role of other ministers, including the Attorney-General (Mr Ruddock) and the Prime Minister (Mr Howard);
(d) the investigation by the Australian Federal Police and other agencies;
(e) the decisions taken by the Director of Public Prosecutions;
(f) the international impact on Australia of the government’s handling of the case of Dr Haneef; and
(g) any future decisions to be made in relation to Dr Haneef.

Senator NETTLE (New South Wales) (11.21 am)—I return to the debate that occurred last night about whether or not the Senate should have an inquiry into the detention and release of Dr Mohamed Haneef. The Greens are proposing this Senate inquiry because we, like others, have watched the case of Dr Haneef unfold before our eyes in the last few weeks and months, and we have had significant concerns about the way in which the laws have been implemented in that case. We have also had concerns about the commentary that has gone with that, particularly that which has been put forward by senior government ministers in relation to this matter, and about the conduct of the ministers involved.

The Greens proposal sets out quite broad terms of reference for a Senate inquiry, which will enable us to look at the role of the Minister for Immigration and Citizenship, Mr Andrews; the role of other ministers, such as the Attorney-General and the Prime Minister; the investigation carried out by the Federal Police; and the decisions taken by the Director of Public Prosecutions. It also will allow us to look at the international impact on Australia of the government’s handling of the case of Dr Haneef. So it is quite wide ranging. We attempted not to limit it, because there are a range of issues that have been brought up by this case of Dr Haneef.

I spoke briefly last night about some of these issues and about how we saw the case of Dr Haneef unfold, with the events in London and Glasgow and then the link to Australia. I spoke about the Daily Telegraph newspaper in my home state, which had a photograph of one of the Gold Coast hospital doctors questioned as part of this investigation and a great big headline saying, ‘The enemy within’. The photograph was of an Indian-born and trained doctor who was working in the public hospital system in a Gold Coast hospital. So there was a very strong message sent out to the community through media, government ministers and public commentary at the time about the seriousness of this particular issue.

I was also saying last night that the detention of Dr Haneef was the first instance we have seen of the use of powers given to the Federal Police in 2004 under the terrorism laws—the ability to hold somebody indefinitely without charge. The court has to approve the extensions of time along the way, but the law allows for somebody to be held continuously and indefinitely on the issue
until they are charged. As I said last night, that is an absolutely extraordinary departure from the way in which the criminal justice system has operated in this country and in comparable Western democracies all around the world.

When that legislation was introduced into the parliament, there was some discussion about how long people could be held. It was an issue that, understandably, people in the community were very concerned about. So we were asking questions about how long somebody was likely to be held under the power that in 2004 was being proposed for the Australian Federal Police. The person answering questions on behalf of the government was a representative from the Attorney-General’s Department, Mr Geoff McDonald, who is the Assistant Secretary of the Security Law Branch. He told the Senate inquiry that it would be extraordinary if somebody were held for as long as 24 hours, which was what was being suggested as a possibility. He said that the courts would consider 16 hours to be a reasonable period of time and that that was a precedent that had been set in the Victorian courts. The courts considered 16 hours to be a reasonable period of time. So that was the message that was sent to the parliament when the government was saying to us, ‘Give extraordinary powers to the Australian Federal Police in order to be able to hold somebody indefinitely without charge.’ Understandably, I was concerned about how long people might be held, and the answer we got from the government was that in an extraordinary circumstance somebody might be held for 24 hours.

What we saw in the case of Dr Haneef was the first instance of these laws being used. The first time they were used by the Australian Federal Police, Dr Haneef was held for 12 days—over 200 hours. The parliament had been told that it would be extraordinary if somebody were held for 24 hours; Dr Haneef was held for 12 days. I think that that by itself is a reason for having a Senate inquiry into the terrorism laws and the way in which they were used in the case of Dr Haneef—because the parliament was told, when we asked questions about how long somebody would be held, that it would be extraordinary if someone were held for 24 hours, and yet the first time the government used these extraordinary powers, which they were given with the support of the opposition, it was to hold somebody for 12 days. So there are matters we need to look into. Was the parliament misled about how these powers were intended to be used? If we do not have a Senate inquiry, we will be unable to look into this matter and all the implications of the case of Dr Haneef. That is one in particular that I can point to, but there are others as well.

As I said, I think that that on its own warrants us looking into how these terrorism laws were used in the case of Dr Haneef, but in the case of Dr Haneef we have other issues which do not necessarily relate just to what our terrorism laws are. They relate to the implementation of those laws by the Australian Federal Police, by the Director of Public Prosecutions and, indeed, by the immigration minister, Mr Andrews. There were mistakes made, and people have acknowledged that—although it is a little unclear who made the mistakes. Was it the DPP? Was it the Australian Federal Police? Was it Scotland Yard? There was a lot of blame going around and not a lot of responsibility, but everyone acknowledges that mistakes were made. That is the kind of thing that we need to understand: how and why did that occur? Were the Australian Federal Police operating under such pressure from the federal government to come up with a charge for Dr Haneef that we saw pressure put on people in that working environment and mis-
takes made by the Federal Police or by others? We do not know the answers to those questions and, until we have an inquiry, we are unable to determine the answers to those questions.

It needs to be a public inquiry because we have seen public confidence in the government’s ability to handle these matters fall dramatically as a result of the case of Dr Haneef. We need to have a public inquiry, not an internal investigation by the Federal Police, although that may be warranted as well. It needs to be a public inquiry so that people can understand. I would have thought that public confidence in the government’s ability to handle the issue of terrorism was something the government itself would want. I would have thought that it would be something the government, the opposition and others in here would support. We need to have that.

I recognise that there have been calls for a number of different types of inquiry. The Premier of Queensland, Mr Beattie, said we should have a Senate inquiry. That is what the Greens are proposing here today. Others have suggested a judicial inquiry. I think there is merit in the idea of having a judicial inquiry, but we are not able to make that happen. We are able to make a Senate inquiry happen, and that is the opportunity that, on behalf of the Greens, I am presenting to the parliament today.

I am saying to members of parliament: this is an important issue. Do you want the public to have confidence in the government’s ability to deal with issues relating to terrorism? Do you recognise that that has been shaken, if not dismantled, through this case of Dr Haneef? Here is an opportunity for us to look into that matter, for us to determine what mistakes were made, how mistakes were made, why mistakes were made and what changes need to be made to the legislation because of the case of Dr Haneef. A range of matters need to be inquired into here, and that is why the Australian Greens are proposing this.

I want to touch on a couple of issues. I want to touch on the amendment that Senator Bartlett has proposed in relation to this proposal that I am putting forward. I am quite happy to accept Senator Bartlett’s amendment. It goes to the issue of the power of the immigration minister to cancel somebody’s visa. I am quite happy to accept that amendment Senator Bartlett is proposing because I do think we need to look into this matter. This goes to the conduct of the Minister for Immigration and Citizenship, Kevin Andrews, at the time. Everyone will remember—I certainly remember; I was here in Canberra on the day—when the Brisbane magistrate looked at the evidence against Dr Haneef, made the decision that it was not strong enough for him to be refused bail and granted him bail. It was within an hour and a half that the immigration minister held a press conference to tell people that he had cancelled Dr Haneef’s visa and that Dr Haneef would not be free to live in Australia whilst investigations continued. No, he would be put into immigration detention in Villawood.

We need to look at this matter. That is an extraordinary power that is given to the immigration minister of the day: under section 501 the minister can cancel somebody’s visa on character grounds. The Greens opposed that when that was brought into this parliament. We are on record saying that we did not think that was appropriate. But it is even less appropriate in this case, because we saw what Mr Andrews, the immigration minister, did: he cancelled the visa before Dr Haneef had his day in court. I understand that the immigration minister cancels around six visas a week on character grounds. I have concerns about that as well. But Dr Haneef’s
visa was cancelled before he even had his day in court. Those other six visas a week which the immigration minister cancels relate to cases where a person has been convicted of a crime, and then subsequently he makes the decision to cancel their visa. I have issues with that because I think it is double jeopardy: if you have served your time, you should not be punished again. But in the case of Dr Haneef he went even further: he cancelled Dr Haneef’s visa before he had even had his day in court.

So there are significant issues that need to be explored, not only around the existence of that power of the immigration minister but also around the way in which it was exercised in this case, and they need to be explored by the parliament. They are not matters that can just be left to a judicial realm. We need to understand what influences, what pressure, the immigration minister was put under. I do not know. We need to understand that so that we can recognise how the laws that this parliament passes are being used, misused or abused—whatever it may be—by the government of the day. We need to have an inquiry into that so we can understand the implications of the laws we are passing here and the implications they have on the lives of ordinary people. I do not want to see any more people go through the experience Dr Haneef went through.

I am not able to say what all of the circumstances were in relation to Dr Haneef, but I am able to say that I think we have seen in the exercise of the terrorism laws, firstly, a concern about the breadth of those terrorism laws such that they can encapsulate innocent people. Whether or not that is the case here I do not know, but they are so broad that innocent people can be caught up in them. I think we have also seen significant problems in the way in which those terrorism and migration laws were implemented by the Federal Police, by the DPP, by the minister for immigration and, importantly, by the Attorney-General and the Prime Minister, who made substantial comments about this matter in the media whilst it was still before the court, continuing to try to smear the reputation of Dr Haneef. Many of those comments have caused, and continue to cause, concern for people in the community.

I met on Monday with a range of very senior Indian doctors who work in hospitals in Sydney. They talked with me about what they are hearing from their colleagues and what they themselves are experiencing in terms of discrimination in their workplaces as a result of the case of Dr Haneef. The immigration minister should be coming out and saying, ‘We value the role that overseas trained doctors bring to the public health system in this country.’ That is what the immigration minister should be doing. Rather than ordering a review into ASIO checks of all the doctors and claiming that we now have evidence that overseas trained doctors are linked with terrorism, which is what the immigration minister did on Sunday, he should be making a clear statement about the value that overseas trained doctors bring to the public health system in this country.

So there are a range of matters that we need to look into. The legal profession has been at the forefront of highlighting what those issues are and what those concerns are. This is an opportunity, through a Senate inquiry, for us to look at the range of matters that have been brought to light through the case of Dr Haneef. They do not deal just with the terror laws; they look at immigration matters, the implementation of the laws and the involvement of government ministers in the decision making in the case of Dr Haneef. We have had calls from all sections of the community for us to have an inquiry into this matter, and this is the opportunity. This is the occasion when we can say: ‘Yes, it’s an important matter. Yes, we think it
needs to be looked into. There are lessons that need to be learned from this. That is the opportunity that the Greens present to the parliament this morning. I urge all senators to support us in having an inquiry into this very important matter.

Senator BARNETT (Tasmania) (11.36 am)—I stand to oppose this motion from Senator Nettle and the proposed amendment by Senator Bartlett. At the outset I want to say that every senator has a right and entitlement to express their views in this Senate chamber. Senator Nettle has been very strong and vigorous in putting forward her views and her concerns with respect to the procedures regarding the visa that has been removed from Dr Mohamed Haneef. Senator Nettle is entitled to do that; she is entitled to put a point of view. But a Senate inquiry is something that I strongly disagree with. Senator Nettle has opportunities to express her views or concerns with respect to the way that this matter has been conducted, the role of the minister, the role of the Australian Federal Police, the role of the DPP and so on and so forth. She can do that, of course, with an adjournment speech or through a motion to the Senate. But a Senate inquiry, which is the subject of the motion that is before us, is something that simply cannot be supported.

There are a number of reasons why it cannot be supported, and I would like to walk through those reasons with the Senate so that it is quite clear to Senator Nettle and Senator Bartlett and others. I say again that they are entitled to put their view and express their concerns in an open democracy such as Australia, but, if a Senate inquiry did take place, I believe it would be very bad public policy. Legally it would be fraught with danger. One of the reasons I say that is because today the Federal Court is hearing an appeal by Dr Haneef’s lawyers with respect to the decision by Minister Kevin Andrews to cancel Mohamed Haneef’s visa. In fact, the hearing began yesterday in the Federal Court in Brisbane, and I understand it is continuing today before Justice Jeffrey Spender.

Surely good public policy and good public practice is to not conduct Senate inquiries into matters that are before the court. Yes, I am a lawyer, and there are many lawyers in this place who would be well aware of the importance of due process. There are concerns that I have and others would have with respect to sub judice and bringing matters that are before the courts before a Senate inquiry. It could certainly prejudice the outcome of that case. So, while proceedings are before the court, I strongly oppose any inquiry into the matters that are being referred to by Senator Nettle and no doubt will be referred to by Senator Bartlett.

The motion also talks about the importance of inquiring into the role of the Australian Federal Police and the role of the Director of Public Prosecutions. We have heard from the Australian Federal Police that there are ongoing inquiries, and it is entirely inappropriate to be looking into matters which the police are currently investigating. We have had no end of advice on this side of the Senate from Senator Ellison, Senator David Johnston and others, who have indicated very firmly and strongly that it is totally inappropriate to be providing information or advice regarding police inquiries—whether it is the Australian Federal Police or state police or any other similar entity. Of course the DPP has a particular role to play. If the senators opposite want to look at the legislation and want to express a view about the role of that in general, of course they are entitled to do that in different forms and different ways in the public arena.

The motion refers to the merit of inquiring into not only the role of the Minister for Immigration and Citizenship, Mr Andrews, whom I will come back to shortly, but also
the role of the Attorney-General and the Prime Minister. Goodness me, this is a far-reaching inquiry that has been recommended by Senator Nettle and the Greens! I think that is definitely going too far. In terms of the role of Minister Andrews, I want to put on the record that I used to be a colleague and an associate of Minister Andrews during my time as a young lawyer in Melbourne in the mid-1980s. Since then I have had the highest possible regard for Kevin Andrews and his capability, his skills and his professionalism. As far as I am concerned, based on the advice that I have received and the information I am aware of, he has acted entirely within the law. He has acted in accordance with the Migration Act. He has acted in accordance with the Solicitor-General’s advice, which has been made public. He has acted in accordance with that advice—that is, that his advice was within the law. He has discretion and he has acted within that discretion. The Solicitor-General’s advice, as I have indicated, has been made clear and made public. Minister Andrews has acted based on a ‘reasonable suspicion’. That is what the Migration Act says. If Senator Nettle or others in this place wish to put an amendment to change that act, to change the test that is relevant to whether the minister should or should not have discretion to form a reasonable suspicion, then they are entitled to do that.

Of course, with respect to the matters of criminal law and matters before the court, there is a different test. This is where the media, in my view, have become quite confused; they have confused those two tests. The minister is acting within his discretion, in accordance with the Migration Act, in accordance with that law, and he has formed a reasonable suspicion to revoke that visa. But, with respect to the Australian Federal Police and the DPP, obviously they have had to form a view, the test being ‘beyond reasonable doubt’. That is a different test, and you would say it has a higher threshold that needs to be met. They are the two different tests that apply. I want to say that, yes, the minister, in my view, has acted in accordance with the law and he has formed that reasonable suspicion. The view that he has put has certainly been backed up by the Solicitor-General.

I want to comment on the views of federal Labor, because they are different to state Labor. The view of the Labor Party in Queensland, put by the Premier, called for a Senate inquiry, which was noted by Senator Nettle. But federal Labor and Kevin Rudd have called for a judicial inquiry. No doubt Senator Ludwig will speak to those points shortly, but I see that as reeking of political opportunism for a good headline in the lead-up to an election. The media are certainly a part of this, highlighting the concerns that have been put by various stakeholders in the community. But federal Labor have called for a judicial inquiry, and I am concerned that they would do that, particularly when litigation is afoot. I will not delay the Senate any longer. For all of those reasons, I very strongly want to oppose the motion that has been put by Senator Nettle and the amendment to be proposed by Senator Bartlett on behalf of the Democrats.

Senator Ludwig (Queensland) (11.44 am)—I rise to speak on the Greens motion proposing a Senate inquiry into the Dr Haneef matter. Perhaps I could say more broadly that the first thing wrong with the motion is in the wording of the very first paragraph where Dr Haneef’s first name is spelt incorrectly. I note that the Clerk obviously corrected the error in the Notice Paper. Notwithstanding that, the amendment by Senator Bartlett seems to have also incorrectly spelt his surname, but in any event I am sure it is all well meaning. Leaving aside
those errors as they are reflected, allow me to deal with the subject of the motion.

This motion is clearly different from that of the Democrat motion, which we dealt with this morning. While the Democrat motion proposed to look at the laws, the Greens motion proposes to look at the actions, investigation, decisions and information collated in relation to the Dr Haneef case. Let me say for the record: Labor opposes this motion. The reasons are quite simple. What this motion purports to do is this: it is a reference to allow the Senate Standing Committee on Legal and Constitutional Affairs to inquire into all aspects of the detention and release of Dr Haneef. These aspects include at point (a) ‘the source and veracity of the information upon which decisions were made’, at point (b) the Minister for Immigration and Citizenship’s actions and at point (d) the investigation by the AFP.

On these grounds alone, any senator with knowledge of or respect for the rule of law and any senator who respects independent law enforcement should not support this motion. In this matter, of course, senators would be aware that this case is still open, active and under investigation by the Australian Federal Police. What Senator Nettle proposes through the inclusion of point (d) is to review the source and veracity of the allegations even as that investigation is taking place. That, quite frankly, is an absurd proposition. It is completely inappropriate and entirely improper for legislators to be trampling through a criminal investigation that is on foot—might I say, not just a terrorist investigation but any criminal law investigation whatsoever.

The Senate does a lot of good things, but it does not act as a court, nor does it adjudicate in these matters in respect of criminal investigations. It is for these reasons that the Australian Federal Police Act 1979 imposes a separation of power such that the minister has no day-to-day power to interfere in investigations but instead must issue his directions in writing to the commissioner as the statutory head of the agency. The Greens—I am not sure they really believe this—apparently believe that there is a power to politically orchestrate investigations. I confess I cannot find this in the act, but its clear absence does not seem to prevent the Greens from believing this to be so.

For the benefit of the Greens—who as a party, to my knowledge, have never managed law enforcement agencies in the Commonwealth—allow me to explain this: about the most the minister could do in directly over-sighting a case like Dr Haneef’s would be to be in receipt of regular briefings by the Australian Federal Police. If this is the information the Greens are seeking, they could—as I would have expected them to have done already—have sought such briefings from the Australian Federal Police, through the minister, so that they could understand what the proceedings have been, what investigations have been going on and what information has been provided. If this were the information that the Greens were seeking, I would imagine that they would be able to arrange such a meeting. The minister could certainly arrange it, if the minister were so inclined.

Having dealt with the point concerning the investigation by the Australian Federal Police, let me turn now to the review of Minister Andrews’s decision, which would be subject to an inquiry via point (b). It seems that, on the very day of the minister’s decision, Dr Haneef’s legal team announced their preparedness to launch a Federal Court challenge. That challenge is taking place as we speak. I do not know how many days have been laid down for the hearing. I know they met yesterday and the matter is continuing today. But, even if the hearing were to be completed today, that judgement would not be
handed down ex tempore. It is unlikely that we will see a result in that matter, and then it will also be subject to whether or not there are appeal processes to follow. Yet here we have a motion that purports to inquire into a matter that is currently before the court. Let me place on the record my strong objection to this motion. It is an inappropriate course of action by this parliament, given that it is a matter that is currently being litigated as we speak.

Let me now address the inclusion of point (a), which goes to the veracity of the information upon which the decision was made. Broadly speaking, there are two classes of decisions made in this case: those under the Migration Act and those under criminal law. For the reasons I have outlined above—namely, that the migration decisions are before the court and, further, that the criminal justice decisions are still actively being made—it is inappropriate for the Senate to be inquiring into these matters at this time. A Senate inquiry may well be appropriate in the Dr Haneef matter at some point in the future, but it is inappropriate now. I will not rule out that a Senate inquiry may at some point be able to be proposed and may be supported by Labor, if that is any comfort to the Greens. But the point is that Labor has proposed and continues to pursue an independent inquiry conducted by a judicial officer. Such an inquiry could canvass the main issues in the case and, in particular, the interaction between the criminal law and the migration law and whether they may be harmonised in some way to lift some of the pressure off our law enforcement agencies. Such an inquiry should not take place, of course, until the investigations have been completed.

I am aware that this morning the Democrats also moved a motion to address the Dr Haneef matter. That motion was not successful in this place. It did suffer a more sensible drafting, though, which is a bonus—at least Dr Haneef’s name was spelt correctly. However, Labor indicated that we did not support that motion either—for many of the same reasons that we have already spoken about this morning. I think our position in respect of that does deserve to be placed on the record. The focus of the Democrats motion was in fact on the antiterrorism laws themselves. We do not consider that a parliamentary inquiry in the terms outlined in that motion—being proposed possibly three weeks out from a national election—would provide any benefit to the Australian public. In fact, the motion proposed an inquiry to report by 1 December 2007. By my calculation, the latest practical date for which the Prime Minister can call an election is around 8 or 15 December. Given the statutory minimum of 33 days notice, this means that the inquiry proposed will necessarily take place in the context of an actual federal election campaign.

Every party likes to say that we do not want to play petty politics with national security. Well, this motion, if supported, would in fact guarantee it. The most appropriate time to decide whether to conduct a review or examination of legislation relating to national security is, frankly, following an election, in the cold light of day, when clear, dispassionate thinking can and should prevail. In respect of the Dr Haneef matter, the opposition have, as I have already pointed out, called for the holding of an independent judicial inquiry. We have stated that the scope of this judicial review should be to determine whether or not the federal government or its agencies have mismanaged the charging, detention and release of Dr Haneef with respect to the proper application of Australia’s antiterrorism and migration laws. We are of the view that such an independent judicial inquiry into the Dr Haneef affair is now essential to ensuring public confidence in the
government’s handling of this matter—and equally Australia’s antiterrorism measures.

Let us have a look at those laws. Dr Haneef was originally detained on 2 July 2007 under section 23CA of the Commonwealth Crimes Act 1914. The Crimes Act applies the following regime: initial arrest, investigation period with options for extension of live time under section 23DA and section 23CB, charging, bail and release. Section 23CA allows a person arrested for a terrorism offence to be detained for the investigation period, which is defined as beginning when the person is arrested and ending four hours later. This investigation period—or live time—can be extended by a magistrate under section 23DA to a maximum total of 24 hours. However, an application may be made under section 23CB to a magistrate to stop the ticking clock in order to allow investigators to collate evidence to conduct questioning. The period while the clock is stopped seems to be now colloquially referred to as ‘dead time’. If this is granted then the effect is to allow the Australian Federal Police to keep the suspect detained for an extra length of time, determined by a magistrate, while the live time is suspended. However, once the 24 hours of live time are actually used up in questioning then it ends.

In this case it seems that Dr Haneef was in what might be referred to as antiterrorism detention for something approximating a third or a half of the period he spent in detention. Let me repeat this: Dr Haneef was held under antiterrorism legislation for less than half the time of his detention. The rest of the time was spent in custody pending a bail decision, in immigration detention and in custody pending the posting of bail. It is worthwhile splitting those times up to understand that, when we talk about the total time, it was actually made up of various components—not all of that time should be collated and put at the feet of dead time. The Australian Federal Police went to a magistrate on a number of occasions to extend the total detention period provided under the antiterrorism legislation for as little as eight hours. So let us immediately dismiss the idea that the law in practice is not regularly reviewed or properly oversighted. The Australian Federal Police have to go to the magistrate. Let me also dismiss any assertion by those who say that these laws are manifestly unjust. Labor support these laws. They are important elements in our fight against terrorism and part of our national security. Labor make no apology for our support of strong antiterrorism measures.

There have been and will continue to be reviews of these laws, which is something that the Greens did not aver in their speeches today. There have been reviews of these laws and there will continue to be reviews. They need to be conducted, though, in a thoughtful and measured way. That is not to say that the laws could not be improved. As a result of this case, the law can be improved in order to enhance security and protect human rights, and the duty of all of us as lawmakers is to consider so doing. It is important to look at the way the laws actually work in practice—to look at them dispassionately and with all the facts—and to ask ourselves as a legislative body: how can we make them work better? The Senate inquiry proposed by the Greens into these issues in the shadow of an impending election, however, would have not enough time to be completed—not enough time to properly consider the issues—and would conflict with the court case on this point or conflict with an active police investigation into precisely the same matters. Therefore, these inquiries would in fact serve little purpose in terms of analysis and add no value in terms of outcome. Indeed, the only purpose I can see for these motions is an outright political purpose.
Labor gives no apology for voting down these inquiries, for supporting the separation of powers or for being very careful not to provide running commentary on matters that are currently either under ongoing investigation or the subject of continuing court action. This has been an important guiding principle in how we, as the alternative executive, have considered our actions. With these words I encourage senators to vote against this motion.

In dealing with some of the matters that Senator Nettle raised in this debate—the extraordinary use of these powers in extending the dead time and what might be regarded as the length of the dead time—you have to look at the dead time in itself, rather than combine it with bail or immigration detention. Putting that aside, this was an investigation that went across a number of countries—three at least—and across an extraordinary amount of information that needed to be examined, looked at carefully and considered. Those are the sorts of provisions which the magistrate has before them in making decisions about whether or not to extend it. Labor has been a strong supporter of ensuring that there is proper judicial oversight of these powers, which are there to ensure that there is not an abuse of the process, and no one has pointed to that at this time.

We can come back to this in the cold light of day and have another look at it, but I would encourage all senators to look at the number and range of reviews of this legislation that are currently underway and the range of overseeing bodies and parliamentary joint committees that have responsibility to ensure that this legislation works effectively. The Sheller review looked at these laws in 2005-06. They are the matters that I wanted to raise today and I encourage senators not to support this motion.

Senator STOTT DESPOJA (South Australia) (12.02 pm)—The Australian Democrats have maintained all along that the matter involving Dr Haneef is worthy of investigation. We do not believe, however, that the motion proposed by the Australian Greens is the best mechanism through which to have that inquiry. I understand the intent behind the motion moved by Senator Nettle and, as I have indicated repeatedly in this place over the last couple of days, we support an inquiry into the handling of the Haneef case, just as we support a broader and more comprehensive inquiry into the legislative framework for antiterrorism legislation in this country. We would support separate inquiries into the matter. We would support an inquiry into the Haneef case that is independent—it may be a judicial inquiry, as has been proposed by the opposition. Personally, I think that that is an appropriate way to proceed. Prior to the Labor Party’s suggestion of a judicial inquiry, I suggested an Ombudsman’s inquiry for similar reasons: because it should be independent, it should not be conducted by politicians and it should not be conducted—as you, Mr Acting Deputy President Barnett, pointed out—while there are matters before the courts. The Ombudsman has the capacity to operate as the Law Enforcement Ombudsman and therefore can investigate the practices, policies, procedures or processes—I am paraphrasing a bit broadly here—when it comes to the Australian Federal Police. I understand that the AFP has yet to come to grips with the scope and the broad mechanism of the powers that have been granted to it by the government. Certainly it is early days and obviously the Haneef case is the first test, as we keep hearing, of relatively recent antiterrorism law, but there are very good grounds for the Ombudsman to play that role. Having said that, we also support the judicial inquiry, for the reasons that have been outlined by the opposition.
Secondly, we support a separate inquiry into the antiterrorism legislation. I hear the concerns expressed by Senator Ludwig, or the rationale for the Labor Party’s decision to vote against the proposal today for a Senate select committee inquiry. Obviously I am disappointed. I think that, if the issue of time lines was a standout concern or reason for the opposition to oppose that motion, we could have quite happily negotiated or discussed a time line. But, having said that, that leaves me with the option of reintroducing the motion, or a comparable inquiry, after the election. To quote Senator Ludwig—and I know that he was not necessarily accusing me of this—this is not 'playing politics with national security'. In fact, it was an attempt to do quite the opposite: to have an inquiry into legislation and the antiterrorism legislative framework away from—the Dr Haneef case. That is inevitable, given that it is the first test case. People keep referring to the 2005 antiterrorism laws, but there are laws preceding that that affected the Haneef case. We also do not know the extent of involvement of ASIO and its legislative powers in that case. There are a lot of issues there that are worthy of investigation but which cannot be investigated at this point of time and certainly not through the proposed fact-finding mission that the Greens have put forward today—it is a flawed mechanism, I am sorry to say. The AFP has advised that the investigation into Dr Haneef is continuing, meaning that most of the evidence that could be put to a Senate inquiry would be classified. I am not sure if the committee process would actually derive the kind of information that would satisfy senators. The fact-finding purpose or mission proposed by this reference would not necessarily allow the facts to emerge in any case.

Therefore, I still maintain that these matters would be better dealt with by a judicial inquiry with wide-ranging powers that would include the ability to compel interested persons, including ministers of course, to give evidence. A judicial inquiry, or indeed an inquiry by the Ombudsman, would allow for a truly independent consideration of the factual matters giving rise to the unsatisfactory outcome of the Haneef affair. As I said, I do not want politicians to be responsible for that particular inquiry. As Senator Ludwig has pointed out, there is precedent for a political or parliamentary inquiry into the facts after a judicial inquiry or a report comes down. There will still be an opportunity to look into those matters, but it is not appropriate to do so at this point.

Apart from this, I believe it is also clear from the Haneef affair that the extent of the broad-ranging powers that are granted to law enforcement and intelligence agencies has gone well beyond what was envisaged by the parliament. Certainly that has been evident in quotes from members of the bureaucracy and departmental comments and, indeed, comments made by government members themselves on the record in the committee inquiry. When the laws passed, I do not know if people actually envisaged the extent to which they would be used generally and maybe specifically in the first case. I do not think anyone really expected—or maybe they did—that a suspect could be held for almost a fortnight without charge. The nature of the charges levelled against Dr Haneef has made the public question, I believe, whether or not terrorism has been broadly defined. Hence, one of the objectives of the proposal for a Senate select committee inquiry is to examine some of these issues.

I acknowledge Senator Ludwig’s kind comments about the drafting of the proposal. I am pretty proud of it and do not think there are any errors or grammatical mistakes. Having said that, people can scrutinise it closely. My aim was to make the committee reference as balanced and objective as possible so
that anyone of any political party in this place could bring their own views or perspectives to the committee and argue their case. I think there are strong grounds for it at this point, particularly in the light of the fact that we have passed more than 40 pieces—

Senator Robert Ray—32.

Senator STOTT DESPOJA—It is 32 according to Senator Ray. I have included in my tally just about every piece of legislation, but we can agree that there have been between 30 and 40 pieces of legislation that have had some impact on, if not had the primary role in determining, Australia’s antiterrorism legislation. It is time. Why not look at how they interact? Why not look at some of the issues that we are suggesting? Do the pieces of legislation adequately safeguard citizens from the threat of terrorism? Do they adequately provide a balance between the need to curtail individual freedoms in situations involving a terrorist threat and the fundamental civil liberties and human rights of citizens? Have they affected fundamental principles of justice, such as habeas corpus and the presumption of innocence? We might all have differing views on this, but I am not sure that we do. This is with all due respect to Senator Ludwig’s comment about the constant review. I do not believe we have investigated the myriad laws and, importantly, how they interact with each other, let alone what actually happens in practice when these laws are being used or tested.

We believe it is appropriate to thoroughly test and investigate our antiterrorism laws. The time line for that may not have been the preferred one for the opposition or indeed the government—although I am more than happy to hear the government’s rationale for voting down the select committee. Without wanting to reflect on a vote of the Senate this morning—obviously the select committee proposal did not provide us with an opportunity for debate in the same way that this committee reference has—it would be good to have on record why the government opposed this reference. I do not think it would necessarily not be in the government’s favour. You never know, it might serve a government purpose to put forward a defence of the antiterrorism legislation. It may even set the ground for them to launch further legislative proposals. I would like to know the government’s views.

To get back to the issue of the time line, I do not underestimate the difficulties in an election year. I know that most of my colleagues are going to be on the campaign trail. It is going to be difficult once parliament is prorogued; although that would not necessarily affect the operation of a Senate select committee. I know that sometimes it is difficult to chew gum and walk at the same time. As senators, many of us are privileged to have long terms. Some of you in this place are only halfway through those terms. I am sure that a few weeks on a Senate committee would be a possibility. Bearing in mind that a reporting date of 1 December may be too difficult for the parliament, let us move to extend it and come up with a different date. The government can initiate their own. I just genuinely believe that a cross-party comprehensive investigation of our laws is not a bad thing. It does not necessarily have to serve anyone’s political purpose. It is not about playing politics with national security; it is just about doing our job as legislators.

I will continue to pursue this. You never know, I might be here on 30 June next year still saying, ‘Please support my Senate select committee proposal’ and failing miserably. Nonetheless, I have got that point—

Senator Robert Ray—It is a Saturday.

Senator STOTT DESPOJA—Is it a Saturday next year? You never know, I may be here on the Saturday. Maybe in anticipation
of my relevance deprivation syndrome, Senator Ray, I will still be hanging about the place saying, ‘Don’t let me leave; I don’t want to go!’

Back to the matter at hand, as I have said, the Australian Democrats will not be supporting the proposal of the Greens. We certainly understand and support the intent behind the motion. An investigation into the handling of the Haneef case is a good idea. Do I want the parliament to do it? No. At this stage, while there are matters of sub judice and while we have an appeal pending, definitely not. I do acknowledge that my colleague Senator Bartlett is to move an amendment to this motion, with very good reason. Obviously, if this motion were to pass the parliament, there would be broader issues to do with migration law that would also be worthy of examination. Whether or not this inquiry proceeds, the Democrats are certainly as one in believing that it is not the most appropriate mechanism. For that reason and the other reasons I and other colleagues have outlined, we will not be supporting Senator Nettle’s motion today but understand the idea behind it.

Senator ROBERT RAY (Victoria) (12.15 pm)—It is not often I address the Senate on national security matters and say that the minor parties, the Greens and the Democrats, come with a genuine approach, but they have—I acknowledge that. They are genuinely concerned about these issues. But I think it is wrong to link the antiterrorism legislation with the failures in the Haneef case. There is not much linkage at all. And it is not true to say that this series of legislation is not reviewed. The Sheller committee reviewed a whole range of legislation. The Joint Standing Committee on Intelligence and Security reviewed the questioning and detention regime with regard to ASIO and are currently completing their review of the proscription regime. However, having 32 pieces, at a minimum, of antiterrorism legislation is not good for an understanding in the Australian community, and there is a strong case for consolidation. The UK has four to five pieces of antiterrorism legislation. One thing I want to again draw to the attention of this Senate is the recommendation by the joint intelligence committee—unanimously carried by four Liberal, one National and four Labor members—of the desperate need to set up an independent review of all terrorism legislation on an annual basis, based on the UK model. What happens in the UK is that Lord Carlile reviews antiterrorism legislation each year and makes recommendations to the House of Commons. I cannot imagine why we cannot go to that process—the consolidation and finetuning of legislation by someone who does not have a partisan political barrel to push.

The government are yet to respond to that recommendation. I urge them, and I urge the minister at the table, Senator Johnston, to seriously look at that recommendation. It is not a matter of partisanship—otherwise five of his colleagues would not have signed up to it—but it is a way to cut the Gordian knot.

The more I look at the Haneef matter, the more I am not sure it is a question of the legislation. If there are faults in the legislation, they are more faults in criminal law legislation than antiterrorism legislation. One day we may have to address those provisions relating to how long someone can be detained and under what circumstances, but I do not see it as a failure of national security legislation in this place.

But we have to address the fact that problems have occurred—that the Australian Federal Police have acted on and disseminated information that was not correct. Do not take this as a major criticism; everyone makes mistakes. That is why you have rub-
bers on the ends of pencils. But, nevertheless, when mistakes are made we have to examine them to know how to avoid them in future. It is even clearer that the DPP made mistakes, given the press conference by Mr Bugg and the dropping of charges. We are entitled to know why the mistakes occurred and what they are going to do to rectify them into the future.

But I tell you what has distressed me, someone who was on the security cabinet for six years and has been on the national security and joint intelligence committees for eleven years: how did all this material get in the public domain? How did it all flood out into the newspapers and who disseminated it? Was it ministerial officers? Was it the DPP’s office and staff? Was it the Federal Police? Was it the defence team? One party I can find guilty straightaway is the defence team, but only in terms of retaliation. There was a mass of material put into the public domain from somewhere. This is not conducive to fair treatment of persons detained and it does smack of panic and sensationalism. We have a requirement on law enforcement bodies that they do not disseminate such information.

At the moment, worldwide we have a clash between intelligence agencies and law enforcement agencies of philosophy and methodology. On one hand the intelligence agencies protect their information. They value secrecy. Police have always had to put information out to get more information back. I am not criticising the police for doing that—that is part of their investigative technique—but, when you bring intelligence and law enforcement together dealing with secret information, that can become a fundamental problem. I noticed in the UK recently the police denying that they had leaked a particular matter because their favourite journalist had not covered it and it was someone they did not know. That told me a lot about the culture of putting stuff in the public domain.

The critical point of this motion put forward by Senator Nettle is that Senator Nettle wants a parliamentary inquiry. I do not at this stage: I want a judicial inquiry. Let me list the reasons. Firstly, there is a lot of confidential and secret information that is pertinent to this case that will never be released to a parliamentary committee, whether it meets in public or in camera. But you can do that in a judicial inquiry, and that is much more likely to get a result. This is what will happen if this motion gets passed today—it will not, but if it did; let us pretend. It will then go to a committee with a government chair and a government majority, who will then set the timing of the hearings, set the witnesses and set the tone, and it will just become a political circus. The opposition members and the minor parties will be demanding these witnesses appear; the majority will overrule them. They will demand these papers be produced; the majority will overrule them. It will turn into a circus. That is not the intention of anyone in this chamber, I might add, but that is what will happen. Whereas with a judicial inquiry we can get a considered view from a judge, sometimes meeting in camera for the more sensitive material and producing something that will assist not only the parliament but also the executive government.

One of the most distressing things about this case and the trend worldwide is this: there does exist antiterror legislation, but there also exists a tendency of the Capone clause coming in—you cannot convict anyone on antiterror legislation, so you use secondary legislation to punish them, to detain them and to hurt them, and that was never the intention of that legislation. If this government wants to introduce secondary legislation as a safety net, where it misses terrorists on one point and fixes them up on an-
other, it would at least have a case. But here these legislative instruments—these clauses and conventions that they are using—all exist for another purpose. It is not good enough to say: ‘We suspect Dr Haneef of this, we can convict him of nothing, but we’ll grab another piece of legislation and punish and harass him.’ That is simply not on as a philosophy of government.

Do not think it is unique to Australia. The United States boast that they cannot detain their citizens without charge being made. That sounds a terrific idea, except they can be detained as a material witness for five years with no charge. By the way, we are a lot better off than the United States; we are a lot better off in some ways than the 28 days in the UK. But that does not mean we cannot look to improve and put safeguards in, for every time you carry legislation on terrorism that restricts people’s civil liberties you must put in the counterbalancing scrutiny and the counterbalancing protections. In that way the community is protected. But the use of secondary legislation is really distressing to me.

Moving onto the question of the immigration minister, it is a long time since I have been an immigration minister, but I understand the pressures that an immigration minister is under. I am yet to be convinced that Mr Andrews committed any illegal acts in regard to this, unless we want to qualify stupidity as an unlawful activity in this country, because he has been quite, quite stupid in some of the statements he has made. That has to be acknowledged.

If he had actually taken action under the 457 visa and cancelled Dr Haneef’s visa long before Dr Haneef had won his freedom by the charges being dropped, I might understand it. But to have the charges dropped and then suddenly cancel his visa within minutes so he could be detained seems to me to be a very rash act. Some of the statements made by Mr Andrews have been totally confusing to me. He first of all said, ‘Oh well, his baby was born a month ago.’ In fact, it was born six days before. That is a fundamental mistake to make, because it does go to motive. Then, of course, Mr Andrews had been to assertiveness classes, because he did not perform too well in the first few press conferences and he went on Insiders and would not answer the question about the four phone calls. It is relevant when someone makes four phone calls to the British police to say, ‘I am returning your call. Do you want information of me?’ That is just ignored, apparently.

Then, of course, we had the extraordinary attack on Mr Rudd and Ms Gillard, demanding they explain his policy—demanding that they come out and give a full explanation of his decision! What does that tell you? What that tells you is: ‘Oh, I intended to wedge you. I failed and I demand to wedge you.’ That is what it basically says. That shows the desperation that was running through this. I do not want to actually allege that political self-interest has been put ahead of national interest here, but on occasions they have been confused—and confused to the disadvantage of many people.

Then Mr Andrews, having been put under the political cosh, seeks advice from Mr David Bennett QC. I have to say for the record that the opposition highly respects the legal opinions of the Solicitor-General. Over the years they have been exceptionally good. But, by the way, we have not seen many of them. Senators here will recall that on many occasions I have got up and asked for legal advice to be tabled only to be lectured by a variety of federal ministers: ‘It is not the government’s practice to table legal advice.’ I have made the point before: the only criterion they use is how far under the political cosh they are. So on this occasion Mr Andrews, having been put under intense pres-
sure, releases the legal advice. But, of course, that will not be a precedent. The government only releases legal advice that is unimpeachable. If there is doubt, qualification, it hides behind executive privilege and does not table it in this chamber. There is no consistency whatsoever from this government when it comes to tabling legal opinions.

But he goes further than that. To get out from under this, he starts publishing restricted and secret material. This parliament extends a privilege to the executive to take charge of restricted and privileged material and trusts them to do so. Every now and then that is to their disadvantage, but not on this occasion. On this occasion Mr Andrews publishes the secret material, much against the wishes of the DPP and the Federal Police, just to save his own political skin. In this game, when that trust is extended to you, you take the lumps; you do not actually reveal secret and restricted information just to protect your own political hide. That is exactly what happened in this particular case.

When I look at all this and at Mr Andrews’s performance, what he ultimately comes down to saying is: ‘I have formed the view that Dr Haneef is a potential terrorist.’ That is the bottom line on this—that Dr Haneef is a potential terrorist. I ask this question: if he is, why did you let him go? Why did you let him go back to India, if he is a potential terrorist? There are ongoing inquiries by the Federal Police and ongoing consideration from the DPP. Why, Mr Andrews, did you let him go home? Well, basically to take the pressure off Mr Andrews and not have him around. That is the reason he went. I want to know what this country is doing letting ‘potential terrorists’ float around the countryside and go overseas. Aren’t we international citizens? Haven’t we got an obligation to the rest of the world? Not if he is a political embarrassment. Send him back home, where he might disappear.

But the most ingenuous argument here today is that this is an operational matter and we should not canvass it. What was Senator Ellison doing in here yesterday in answer to a preprepared question, giving a four-minute justification—going to the details of this case—when it is an operational matter? So you are allowed to comment in this chamber on an operational matter when your political future is at stake. When the government needs to get out and proselytise, you can do it. But if it is not convenient and you get asked this question in here, the minister here, Senator Johnston, would say: ‘This is an operational matter. Don’t comment.’ And he would be absolutely right. But it is not a condition, it is not a prerequisite, for this government to obey. It is happy when necessary to put secret information in the public domain. It is happy to canvass operational matters when it is under the political cosh—when it is politically expedient to do so.

On this occasion the opposition reiterates that there are concerns with regard to the Haneef case. It is not so much to do with the legislation but with the way the law enforcement authorities have handled the case. It does need examination, but there would be no value in it becoming a political circus by being referred to a committee with a government majority that can be manipulated. For the future good of the government, these matters require an independent judicial inquiry so that we can rectify the necessary procedures so that we do not have a repeat of this. You have to understand that the antiterrorism laws have majority support in this country—and we want to make sure they continue to have majority support. We do not want them undermined by poor procedure, we do not want them undermined by sensationalism and, frankly, we do not want to treat people like this.
When Dr Haneef left this country, the immigration minister said, ‘He has run away, he has left the country; that is proof of his guilt.’ What sane person would stay in this country having been detained for 12 days, put in an orange uniform, put in handcuffs and vilified by the press? He knew he had relatives being detained in the UK who were probably far more guilty than he could ever be. He had a newborn daughter in India. Having all that, where would you go? I ask those opposite: wouldn’t you do a runner, too? I think I might have. I do not think I would have said: ‘All is forgiven in Australia. What a great place! I’m going off to the Cox Plate or the Hiskens Steeple next week. It’s just great!’ Of course you would go away and have a break from it! When it comes to cancelling someone’s visa, one of the things you might have taken into account is what sort of hell they had been through in the last 12 days. I think it is proper for a minister to balance that off—that he had in fact gone through a very traumatic experience. Anyway, let us not make conclusions and judgments on this. Let us ask for a judicial inquiry, get a rational approach to this particular issue, and reassemble to debate such a judicial report in this chamber at a later date.

Senator BARTLETT (Queensland) (12.32 pm)—I move:

At the end of the motion, add:

(h) whether there is merit in changing the law relating to the character and conduct provisions used by the Minister for Immigration and Citizenship to cancel Dr Haneef’s visa and the mandatory detention aspects of the Migration Act 1958, along the lines proposed in the following bills which are currently on the Notice Paper in the name of Senator Bartlett:

(i) Migration Legislation Amendment (Provisions Relating to Character and Conduct) Bill 2006, and

(ii) Migration Legislation Amendment (Duration of Detention) Bill 2006.

I agree with a lot of the comments that have been made, and I will not repeat many of them. Senator Johnston, as Minister for Justice and Customs, is the junior minister to the Attorney-General. As he is still in the chamber, I would like to reinforce the plea from Senator Ray that the government consider the recommendation from the Parliamentary Joint Committee on Intelligence and Security. Now that Senator Johnston is the minister, I would urge him to use his influence to get that unanimous recommendation adopted because, in effect, it does a lot of what many of us, in our own different ways, have called for today. Let us have a look at that whole bag of antiterrorism laws—whether there be 32 of them or 40. I am sure there are 40, but we will have the argument elsewhere.

Senator Stott Despoja interjecting—

Senator BARTLETT—Anyway, there are a damn lot of them, they are inserted in all sorts of different places, and it would be really good to have a look at them. As Senator Ray said, the joint intelligence committee has made that recommendation on a bipartisan, unanimous basis. I am also duty-bound, by tradition, to note that the joint intelligence committee does not have any representative from the crossbench on it—by law.

Senator Robert Ray—Your current vote is two per cent.

Senator BARTLETT—I am talking about the entire crossbench. Whether a Democrat, a Green or, indeed, Mr Andren from the lower house—he is seeking to get into the upper house—I am sure we would all have backed that recommendation, were we on the committee, because it sounds eminently sensible. When committees look at these things and make recommendations and the government still ignores them, those are
the sorts of things that help build public sus-
picion and undermine things.

If this committee inquiry were to go ahead—and we have all heard reasons why it is not appropriate at this time, which I concur with—the core issue is to look at the legisla-
tion that undermines it. In my view, the core issue in respect of problematic legislation is in the migration area. I have had legislation before the Senate since last year. The two bills mentioned in my motion are private member’s bills of mine that go to the charac-
ter provisions in the Migration Act and to one aspect of the detention issues in the Mi-
gration Act. The components of that bill that I have put forward would remove the prohi-
bition on people seeking an injunction through the courts to be released from ongo-
ing detention in certain circumstances—a power that did exist for a while and was also quashed by government legislation passed through this Senate.

There has been a lot of understandable criticism of the Minister for Immigration and Citizenship—and we have heard some more criticism put forward very eloquently, as al-
ways, by Senator Ray today. But my view, which I have publicly stated a couple of times, is that, whatever the criticisms of Min-
ister Andrews might be, you cannot expect to have a law that gives any minister—whether it be Minister Ruddock, former Minister Vanstone, Minister Andrews or any future minister—such absolute and all-
compassing power to cancel somebody’s visa using the character provisions, on the basis of having a suspicion that they have an association with somebody else, without de-
fining or limiting what ‘association’ means, and then act surprised when they occasion-
ally use that power in a capricious or politi-
cal way, particularly in an election year. You cannot give open-ended powers and then express surprise when they are used in a way that creates injustice—it is simply inevitable.

The Haneef case has had a lot of attention, for very appropriate reasons, but there have been literally hundreds of people who have been subjected to this part of the Migration Act at great personal cost. Many of them are longstanding members of the Australian community who have been here longer than Dr Haneef. Many of them have been here for decades, and some of them have been here virtually their entire life. They now live the reality of, in effect, having had passed on them by the minister of the day a sentence of permanent exile from what is, in effect, their homeland—permanent exile from their family, their friends and the community, poten-
tially for life. They will never get a visa to get back into Australia. They are having their visas cancelled, for all intents and purposes, without any meaningful opportunity for that decision to be independently reviewed in any meaningful sense of the word.

That is the reality that exists now under law, and it existed, I might say, long before terrorism was put on the agenda. It was put through this place by both major parties back in 1998. It was put through this place at the time because the minister of the day got an-
noyed because a court had overturned one of his decisions to cancel someone’s visa. He said, ‘I’m not going to have that happening again. We’re going to push for laws that give me almost absolute power.’ And, as we all know, if you give someone absolute power, then inevitably, over time, it will be misused and gross injustices will occur. So my key point is to simply emphasise that in any in-
quiry that happens—whether it is this one or any other inquiry into anything to do with the Haneef matter—in my view, as a matter of absolute necessity, we need to look at the underlying laws, not just the actions of par-
ticular people, whether it is the minister, the police or anybody else.

To me, the most extreme breaches of basic freedoms are not under our antiterror laws,
as problematic as some of them might be; they are under our Migration Act, in both the character provisions and the detention provisions. Let us not forget that, even under our antiterror laws, when Dr Haneef was a terror suspect and had charges laid against him, he still had the right to apply for bail through a court and have that considered by a magistrate. That is what occurred, of course. I was in the court in Brisbane when that decision was handed down. It was clearly a reasonable judgement, having weighed up all the evidence. His visa was cancelled. Even when he had no charges against him and there was no suspicion of any credible sense of being any sort of security or safety risk to the community, he was suddenly locked up, potentially indefinitely, and had no right to go to a court. That is perverse and something that we need to reconsider. That is still the reality of mandatory detention.

I will not comment specifically on the case before the court, although I am sure that the judge that is hearing it would not be swayed if I did comment at length on the case before the court at the moment. Nonetheless I shall not do so, beyond noting the reports in the papers today about Justice Spender’s own comments where he queried how broad the definition of ‘association’ could be and raised the situation where people, who are absolutely and totally innocent, nonetheless—under the literal meaning of the word ‘association’—can be deemed to have an association with someone else. Obviously you have an association with your relative, whether you like it or not. You have an association as a taxi driver by virtue of picking someone up. Those are the sorts of things that were talked about in the debate in this place back in 1998. It is just open-ended. We will see the decision that the judge comes down with.

As people would know, I was quite active in trying to ensure fair process for Dr Haneef. I have spoken to his relatives and wife. Clearly, I am associated with them. Under the broadest interpretation of the provision in the Migration Act, that would pull me under the character test, except for the fact that, of course, I am an Australian citizen, so I cannot have my visa cancelled. But that shows just how broad the definition could be and how much of an inhibition can be applied to the actions of anybody who is a noncitizen in this country. Let me remind the Senate that that includes literally hundreds of thousands of people. I believe there are over a million people in this country who are permanent residents and eligible to be citizens but have not taken out citizenship for all sorts of reasons. Many of those residents have been here for years and years. All of them could potentially, at any time, come under the totally open-ended provision regarding association.

Hundreds of thousands of others here each year, such as Dr Haneef, help our country in meeting skills shortages and filling jobs. They are all at risk of these unfair laws, and that is why they need to be examined—not just because they might end up being subjected to unfairness but also because, in the interests of Australia as a nation and of Australian citizens, it is certainly not in our interests to have people living amongst us who are fearful about who they talk to, who they are seen to associate with and what sorts of ways they might fall foul of extreme and unfair laws. That does not do us as a society any good; it does not do our economy, our community or anything any good. I believe it is very important that we re-examine those provisions in the Migration Act. It certainly will not happen through this particular motion, but I would continue to urge the Senate to look for opportunities to do that. I think both the character provisions and the detention provisions of our Migration Act need reform. They are totally open-ended and are
therefore able to be applied in extremely unjust cases.

I make a final point with regard to this, because this is the main opportunity we have had to debate the Haneef issue. According to reports in the papers today, we have had yet another mistake in what was put to the courts yesterday in the hearing. It was about the notorious SIM card of Dr Haneef. There has been confusion over when it actually expired. Information was put to the court that it had expired towards the time of the recent attacks. It was clarified that, indeed, Dr Haneef’s notorious SIM card had actually expired back in August last year—some 10 months before the recent terrorist activities—and was then renewed by somebody else. The fact that that piece of information about something that seemed so critical in this—the SIM card—was still not right when it appeared before a court, from what was put forward by government or Commonwealth officials, really does have to be cause for concern.

I would like to make another point. It links to the other big debate we have been having in this chamber this week, and we will be having it again next week. There is all the talk about putting the situation for Indigenous people front and centre and trying to find extra police from all around the country—10 police from each state being lent to assist the situation in the Northern Territory. I am certainly not criticising the benefits of having more police to assist Indigenous communities, as long as those police are appropriately trained.

From various reports that I have seen on the Haneef case, there have been at least 300 police. One report I saw said there have been 500. I find that hard to believe, but obviously hundreds of Federal Police were involved in investigating the Haneef case. If we have hundreds of police looking at this one person and desperately trying to find something more than a long-expired SIM card to pin on him—and, reportedly, an investigation is going to continue for as long as it takes to find something on this guy—where are our priorities in the use of police? If we are really saying that there is a genuine situation in the Northern Territory that needs urgent strong support and we need more police there—and I do not dispute that, as long as they are appropriately trained and doing appropriate things—perhaps a few of those hundreds from the federal level could be added to assisting Indigenous people in the Territory, and maybe even elsewhere as well where they are calling for that sort of extra help.

Senator KIRK (South Australia) (12.45 pm)—I rise this afternoon to speak briefly in relation to this matter and to support the comments of my Labor colleagues. Unfortunately, we are unable to support the motion of Senator Nettle to have the list of matters referred to the Senate Standing Committee on Legal and Constitutional Affairs for inquiry. The reason for this is that we believe, as I will outline, that this is a matter that has an appropriate time and place. However, it is not something that ought to be undertaken by the Senate committee.

Extraordinary antiterrorism powers were exercised during the recent case concerning Dr Haneef. These are laws that have been enacted through the parliament over the last five or six years. In fact, it is the case that Australia now has 44 pieces of antiterror legislation that have been enacted since 2001, and there is no question that these laws require maintenance and continual review. The case concerning Dr Haneef was really the first test case in Australia involving the new antiterrorism laws, and Labor has said, quite openly, that there ought to be a judicial inquiry concerning the operation of these laws in relation to Dr Haneef. However, now
is not the time for review and the Senate is not the place for that review to take place.

I think it is important to distinguish two matters here: firstly, the matters concerning Dr Haneef, his detention, questioning, being taken into custody, and subsequent release from custody; and, secondly, the wider issue of antiterrorism legislation, more generally, and the need for an ongoing review of that legislation. For the moment, I will just concentrate on the matters that are raised in Senator Nettle’s motion.

As Senator Ludwig said before me, Labor considers that now is not the time for such an inquiry to take place by the Senate. It is, of course, completely inappropriate for us, as legislators, to be involved in reviewing the matter relating to Dr Haneef when there is a criminal investigation currently afoot. As we know, the Australian Federal Police is continuing its investigation in relation to Dr Haneef and, whilst that is occurring, it is not appropriate for the Senate or any of its committees to undertake a concurrent investigation. In addition, the matter relating to the cancellation of Dr Haneef’s visa is also the subject of court proceedings as we speak. Dr Haneef’s legal counsel, of course, have challenged the decision of Minister Andrews to cancel Dr Haneef’s visa and that matter is being heard in the courts currently. So there are two very good reasons as to why the Senate or one of its committees should not be undertaking an inquiry into this matter at this point in time.

Moving on to where such an inquiry ought to take place, Senator Nettle has moved, as I said, that such an inquiry take place by Senate inquiry. Whilst Labor believe that there ought to be an inquiry in relation to the matters surrounding the decisions made by various individuals, ministers and Commonwealth agencies in relation to Dr Haneef, we consider that such an inquiry ought to be conducted by a judicial officer and that the nature of the inquiry should be an independent one. We have said that an appropriate person to chair this judicial inquiry would be, for example, a retired judge of one of the supreme courts or a retired High Court judge. We have said that such an inquiry could canvass the main issues in the case and, in particular, the interaction between the criminal law and migration law, and whether they may be harmonised in some way in order to lift some of the pressure off our law enforcement agencies. But we emphasise that such an inquiry should not take place until the investigation that I referred to earlier by the AFP has been completed.

Moving now on to the broader issue of the review of antiterrorism laws, as other speakers have emphasised, there have in fact been numerous reviews of the antiterrorism laws that currently exist in Australia. One of the primary reviews that took place was the Sheller review that, as I understand, tabled its report in parliament in June 2006. This was a public and independent review. Chaired by Sheller, it reviewed the 2002 package of security legislation, plus the Criminal Code Amendment (Terrorism) Bill 2003. The review was required to be undertaken as soon as practicable after the third anniversary of the commencement of the Security Legislation Amendment (Terrorism) Act and to report to the Attorney-General and to the Parliamentary Joint Committee on ASIO, ASIS and DSD within six months of the review commencing. As I said, the Sheller report, which is a comprehensive review of this legislation, was tabled in the parliament in June 2006.

In the context of additional reviews, it is interesting to note that the Sheller report did recommend that the government establish a legislative based timetable for continuing review of the security legislation by an independent body, such as the Security Legisla-
tion Review Committee, to take place within the next three years. The report went on to say:

If an independent reviewer ... has been appointed, the review to be commissioned by the Council of Australian Governments (COAG) in late 2010, could be expanded in its scope to include all of Part 5.3 of the Criminal Code.

That recommendation was made by the Sheller review, and it is a matter that the government should consider implementing.

I was interested in and agree with the comments made by Senator Ray earlier this afternoon in which he indicated that in the United Kingdom there is an annual, independently conducted review of antiterrorism laws. He suggested—and I think it is a very good suggestion—that the Attorney-General and the Minister for Justice and Customs look very carefully at what happens in that jurisdiction because we would be wise to adopt a similar approach. Certainly the Dr Haneef matter has indicated that there is need for constant review and scrutiny of our existing laws, particularly in this context, if there is going to be ongoing public confidence in the antiterrorism laws. One of the best ways to ensure that is to have a constant review of the legislation, ideally by an independent body.

Unfortunately, we are unable to support Senator Nettle’s motion. We support the intention behind it, but, in Labor’s view, a Senate inquiry is not the way that we ought to proceed in relation to this matter.

Senator NETTLE (New South Wales) (12.54 pm)—I thank other senators for their contributions to this debate. It is not my intention to have a Senate inquiry into something that is before the courts. A number of people have raised that issue, and I would be very happy to extend the reporting date to ensure that that did not occur. As Senator Ludwig outlined in his contribution, it is difficult to set time lines because there is an election coming. The Labor Party indicated they did not support Senator Stott Despoja's motion because the time line was too long and indicated they were not going to support my motion because the time line was too short. It is a difficult thing to do. I acknowledge the comments that people have made about the importance and possibility of having a judicial inquiry. I would be quite supportive of a judicial inquiry occurring in relation to this matter. But I think we have the opportunity—

Opposition senators interjecting—

The ACTING DEPUTY PRESIDENT (Senator Marshall)—I am sorry, Senator Nettle, but you have provoked a controversy on my left. I call senators to order.

Senator NETTLE—As I was saying, I would be quite happy for a judicial inquiry to occur. I said that in my opening remarks in relation to this matter. But we do not have the ability to make a judicial inquiry occur; only the government has the ability to make a judicial inquiry occur. We do have the ability to make a Senate inquiry occur, and that is why I am moving this motion in the Senate. I think we have heard from almost every speaker that there should be an inquiry into this matter. People have slightly different views about when and how that should occur, but we have heard that this is a matter that needs to be further looked into. That is what I am proposing—that we have an inquiry. It would be great if the government proposed a judicial inquiry, but the Prime Minister has made it quite clear that it is not the government’s intention to do that. So this is our opportunity, and that is why I am proceeding with this motion. It has been good to hear everybody’s views on this issue and to hear general support for an inquiry from the majority of speakers. This is the opportunity,
and that is why I am making this proposal to the Senate. I hope to see it supported.

The ACTING DEPUTY PRESIDENT—The question is that the amendment moved by Senator Bartlett be agreed to.

Question negatived.

Original question put:

That the motion (Senator Nettle’s) be agreed to.

The Senate divided. [1.01 pm]

(The Acting Deputy President—Senator GM Marshall)

Ayes…………… 5

Noes…………… 43

Majority……… 38

AYES

Brown, B.J.  
Milne, C.  
Siewert, R. *

NOES

Allison, L.F.  
Bartlett, A.J.J.  
Birmingham, S.  
Boyce, S.  
Campbell, G.  
Colbeck, R.  
Crossin, P.M.  
Fifield, M.P.  
Forshaw, M.G.  
Hurley, A.  
Kirk, L.  
Marshall, G.  
McEwen, A.  
McLucas, J.E.  
Murray, A.J.M.  
Parry, S.  
Payne, M.A.  
Ronaldson, M.  
Sterle, G.  
Troeth, J.M.  
Watson, J.O.W.  
Wortley, D.  

* denotes teller

Question negatived.

AUSTRALIAN POSTAL CORPORATION AMENDMENT (QUARANTINE INSPECTION AND OTHER MEASURES) BILL 2007

Second Reading

Debate resumed from 20 June, on motion by Senator Abetz:

That this bill be now read a second time.

Senator CONROY (Victoria) (1.05 pm)—I rise to speak on the Australian Postal Corporation Amendment (Quarantine Inspection and Other Measures) Bill 2007. Labor regards this bill as a sensible approach to address legislative anomalies and introduce amendments to the Australian Postal Corporation Act 1989 for the benefit of the wider community. This bill has been developed in consultation with state and territory governments and Australia Post.

One of the key aims of this legislation is to prevent the spread of pest species between states and territories. The bill will implement recommendations from the 2004 Senate Environment, Communications, Information Technology and the Arts References Committee report Turning back the tide: the invasive species challenge and the 2005 House of Representatives Standing Committee on Agriculture, Fisheries and Forestry report Taking control: a national approach to pest animals.

The bill will prevent the spread of pest species between states and territories by providing for the inspection and examination for interstate quarantine purposes of postal articles carried by Australia Post. The bill aims to remove the legislative anomalies that see the prohibition of inspection and examination for quarantine purposes of interstate articles carried by Australia Post, except in certain circumstances, and see Australia Post subject to different inspection regimes from those of other interstate carriers. This is a
sensible approach and one which Labor supports.

The bill also allows for the disclosure of scam mail articles to consumer protection agencies to ensure households are protected from scam mail. Labor supports the scam mail provisions of the bill as they address the issue of scam mail and implement the recommendations of the consumer protection agencies, which have been concerned by the increasing amount of scam mail received by households throughout Australia.

Further, the bill introduces amendments to reflect the operation of the GST and the wine equalisation tax or WET. The bill provides that, where an authorised examiner has reasonable grounds to believe that an international mail article may contain an item on which GST or wine tax is payable, they may open that article. This amendment is sensible and ensures an equitable system of taxation and import duties is imposed on all.

The bill also introduces an amendment to ensure that Australia Post may request information from a compliance agency so that it can comply with its obligations under the Universal Postal Convention. I commend the bill to the Senate.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.07 pm)—I thank Senator Conroy for his eloquent summing up of the bill. I also commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

THERAPEUTIC GOODS AMENDMENT BILL 2007

Second Reading

Debate resumed from 20 June, on motion by Senator Abetz:

That this bill be now read a second time.

Senator McLUCAS (Queensland) (1.08 pm)—Given the hour, I seek leave to have my speech on the second reading of the Therapeutic Goods Amendment Bill 2007 incorporated in Hansard.

Leave granted.

The speech read as follows—

I rise to speak on the Therapeutic Goods Amendment Bill 2007.

The purpose of the Bill is to amend the Therapeutic Goods Act 1989 to effectively extend the transition period enabling “therapeutic” devices currently “listed” or “registered” in the Australian Register of Therapeutic Goods (ARTG), to be entered in the ARTG as “medical” devices under the regulatory scheme introduced by the Government in 2002.

The Bill also makes consequential amendments to the Therapeutic Goods Amendment Act (No. 1) 2006 and the Therapeutic Goods Amendment (Medical Devices) Act 2002.

Labor will be supporting the passage of the Bill through the parliament.

By way of background—the Australian Register of Therapeutic Goods (ARTG) is a computer database of therapeutic goods, established under the Therapeutic Goods Act 1989 and administered by the Therapeutic Goods Administration (TGA).

Therapeutic goods listed on the Register are divided broadly into two classes—medicines and medical devices.

The new regulatory framework for “medical” devices is contained in Chapter 4 of the Act, which commenced operation on 4 October 2002.

The new regulatory framework provided for two transition periods to enable “therapeutic” devices currently “listed” or “registered” in the ARTG under the old regulatory scheme, set out in Chapter 3 of the Act, to be entered in the ARTG as
“medical” devices under the new scheme (Chapter 4 of the Act) by either 4 October 2004 or 4 October 2007.

The first transition period, established through the operation of subsections 9B(1), 15A(5) and 15A(6) of the Act, ended on 4 October 2004 and required sponsors of previously exempt medical devices and some medical devices that were no longer excluded from the operation of the Act to have their devices included in the ARTG.

The second transition period, established in subsection 9B(2) of the Act, ends on 4 October 2007. The effect of current subsection 9B(2) is that therapeutic devices ‘registered’ or ‘listed’ in the ARTG under Chapter 3 of the Act will be taken to have been cancelled on 4 October 2007 or, if entered in the ARTG as an “included” medical device under Chapter 4 of the Act before that date, the date on which the inclusion takes effect.

The effect of cancelling the registration or listing of a therapeutic device under Chapter 3 of the Act is to prevent the sponsor of those therapeutic devices from continuing to market them to the general public.

The need for the amendments before us today arises because of delays in implementing the new regulatory scheme for medical devices, introduced by the Government in 2002.

The introduction of the new regulatory scheme necessitated that more than 30,000 “medical” devices be re-assessed by the TGA in order to transition from the old to the new scheme.

We understand from both the Government and industry groups that this requirement for re-assessment has posed significant challenges to both the TGA and the medical device industry, with the result that it now appears that all of the necessary re-assessments will be completed by the 4 October 2007 transition deadline.

The amendments in this Bill seek to effectively extend the transition period. The Bill substitutes the existing requirement for medical device sponsors to have their products entered in the ARTG as “included” medical devices by 4 October 2007 with a requirement to lodge an application with the intention of transitioning their products to the new scheme by 4 October 2007.

These amendments effectively allow for the continued supply of devices until such time as the TGA has completed its assessment of the compliance of the device, rather than mandatory cancellation on 4 October 2007.

In the absence of these amendments some medical devices would be prevented from being marketed for public use, not only adversely affecting the commercial supply of medical devices to the general public—interrupting access by patients and health practitioners—but also potentially undermining the domestic medical devices industry—with particular commercial disadvantage for sponsors of such devices.

Labor has sought views from industry representatives and understands that they support this legislation.

The Bill commences, or is taken to have commenced, on 3 October 2007.

According to the Explanatory Memorandum there are no significant financial implications.

Labor supports this legislation because we understand, firstly, that the potential disruption to the supply of medical devices could undermine consumer access to vital medical devices, and this sort of disruption should obviously be avoided.

Secondly, Labor supports the Bill because it will also ensure certainty of continued supply of such devices in health care facilities and help maintain consumer confidence in the health system.

Finally, Labor supports the amendments because they will remove uncertainty within the industry and ensure that the economic viability of Australian medical device companies is not undermined by the delays in the new regulatory scheme.

In conclusion, as I said at the outset, Labor will be supporting the Bill.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.08 pm)—I commend the bill to the Senate.

Question agreed to.

Bill read a second time.
Third Reading

Bill passed through its remaining stages without amendment or debate.

NATIONAL HEALTH AMENDMENT (NATIONAL HPV VACCINATION PROGRAM REGISTER) BILL 2007

Second Reading

Debate resumed.

Senator McLUCAS (Queensland) (1.09 pm)—I seek leave to have my contribution to the debate on the National Health Amendment (National HPV Vaccination Program Register) Bill 2007 incorporated in Hansard, but, in doing so, I want to recall the actions of the late Senator Jeannie Ferris and the work that she did in order to get 22 women senators in this place to sign the letter that went to the minister, making very strong representations on behalf of those 22 senators to register Gardasil on the schedule.

Leave granted.

The speech read as follows

I rise to speak on the National Health Amendment (National HPV Vaccination Program Register) Bill 2007.

The purpose of the Bill is to amend the National Health Act 1953 by inserting a new s.9BA, providing for the establishment of the National Human Papillomavirus (HPV) Vaccination Program Register.

Labor played an important role in pushing the Government towards including Gardasil, the first vaccine available to treat some strains of HPV, on the National Immunisation Program (NIP). Naturally we will support these measures to establish the Register as they will enhance the efficiency of the National HPV Vaccination Program.

By way of background, HPV is a sexually transmitted infection, mostly affecting women 20 to 24 years of age. Almost all abnormal Pap smear results are caused by HPV. In 98 per cent of cases, HPV clears by itself. In rare cases, if the virus persists and if left undetected, it can lead to cervical cancer.

Cervical cancer kills around 200 women in Australia each year.

Gardasil, developed by former Australian of the Year Professor Ian Frazer, was the first vaccine available that protects against some of the cancer causing strains of HPV, notably HPV strains 16 and 18 which cause around 70 per cent of all cervical cancers.

Senators would recall that late last year CSL Limited, the Australian manufacturer and distributor of Gardasil, sought to alleviate the market cost of the vaccine—$460 for a course of three shots—to Australian families and applied to the Pharmaceutical Benefits Advisory Council (PBAC) for Gardasil to be listed on the National Immunisation Program.

The PBAC in November 2006 knocked back CSL’s original application. Unsurprisingly, there was an outcry from health stakeholders, patients groups and pharmaceutical companies.

I’m proud to say that Labor—including my colleague the former Shadow Minister for Health Julia Gillard—was vocal in demanding that PBAC’s decision be urgently reviewed.

Senators would recall that 22 women Senators—from all parties—signed a letter to the Health Minister Tony Abbott saying that while they recognised the careful analysis that the PBAC undertakes in making these decisions, they believed this particular decision required urgent review.

Eventually, after Prime Ministerial intervention, the Minister saw sense and requested PBAC to consider a new application from CSL, in which some of the main initial concerns raised by PBAC were addressed.

Gardasil was subsequently approved for inclusion on the NIP at an extraordinary PBAC meeting in late November and on 29 November 2006 the Government announced that it would fund free HPV vaccine for females in the 12 to 26 year old age group under NIP. The establishment of a HPV Register was also announced at that time.

Turning now to the legislation before us: this Bill inserts a new s.9BA into the National Health Act 1953 providing for the establishment of the National Human Papillomavirus (HPV) Vaccination Program Register.
According to new subs 9BA(3), the purposes of the Register are to ensure the successful implementation of the National HPV Vaccination Program, and in doing so facilitate the establishment and maintenance of an electronic database of records for monitoring vaccination of participants in the HPV Program.

Broadly speaking, the establishment of the Register will assist in the administration of the vaccination program itself, provide a means to monitor participants in the Program and assist in monitoring and evaluating the effectiveness of HPV vaccine in preventing certain cervical cancers. It is intended that the HPV Register will collect information about the vaccination program, including personal identifying details, details about the doses given and the immunisation provider.

Labor acknowledges that there will be some in the community who will have privacy concerns around the collection of such data. On this issue I note that the Bill provides for women or the parents of girls to have information removed from the Register following a request in writing—an “Opt Off” register which reflects the arrangements that have already been in place in Australian State/Territory-based Pap test registers. No information about sexual history will be sought or recorded, and the Bill precludes the release of personal information except to a vaccination provider or to prescribed bodies, either through regulation or as prescribed in the Health Insurance Act 1973.

Labor is satisfied on this basis that the Bill adequately addresses privacy concerns. The Register will help to monitor the effectiveness of HPV vaccine in preventing certain cervical cancers by allowing for future cross referencing of data against Pap Smear and other cervical cytology or cervical cancer registers maintained by States and Territories. The Register will also allow for the maintenance of records tracking the HPV vaccination status of eligible persons for the purposes of certifying the completion of the course of vaccination and establish mechanisms to advise eligible persons—or the parents or guardians of children—if doses of HPV vaccine have been missed or if booster doses are required in the future.

The Register will allow for the provision of information on new developments associated with the Program to vaccination providers, eligible persons and parents or guardians of children—promoting general health and well being. And finally the legislation provides for the payment of general practitioners who enter information in the Register.

According to the Explanatory Memorandum there is no financial impact for the Bill. Funding for the Register was approved by the Prime Minister on 20 February 2007 as part of an additional $103.5 million over five years allocated for the implementation of the HPV Program. A total cost of $8-$11 million has been allocated to build and operate the Register over 3 years.

Labor supports this Bill. As I said earlier Labor was a strong proponent of Gardasil, to treat HPV, being put on the NIP so we are keen for its implementation to be as efficient as possible and its evaluation as thorough as possible. We support all measures that are aimed at the promotion of the health and well being of Australians, and which provide assurance to young women that the Australian Government is doing everything possible to help protect them against HPV.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.10 pm)—I thank Senator McLucas for her gracious contribution. The National Health Amendment (National HPV Vaccination Program Register) Bill 2007 amends the National Health Act 1953 to insert provisions for the establishment and maintenance of a Human Papillomavirus Register to complement the implementation of the National HPV Vaccination Program. The register will collect personal and vaccination information about people who receive the HPV vaccine under the HPV program, with a view to evaluating, in the long term, the effectiveness of the vaccine in reducing the incidence of cervical cancer. The HPV register will also facilitate a number of other functions relating to the HPV program, and the payment of an administra-
tive fee to general practitioners who provide information to the register.

In summary, this amendment will ensure the collection of information which, in addition to evaluating the success of the HPV program in reducing cervical cancer, will also inform the policy direction of the HPV program and government expenditure in the future. It will also benefit individuals participating in the HPV program by providing them with information about their vaccination status, sending notifications when doses of vaccine have been missed, and facilitating a recall system for participants in the event that booster doses are required at a future time. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

INDUSTRIAL CHEMICALS (NOTIFICATION AND ASSESSMENT) AMENDMENT (COSMETICS) BILL 2007

Second Reading

Debate resumed from 8 August, on motion by Senator Johnston:

That this bill be now read a second time.

Senator McLucas (Queensland) (1.12 pm)—I seek leave to have my speech on the second reading of this very important bill, the Industrial Chemicals (Notification and Assessment) Amendment (Cosmetics) Bill 2007, incorporated in Hansard.

Leave granted.

The speech read as follows—

I rise today to speak on the Industrial Chemicals (Notification and Assessment) Amendment (Cosmetics) Bill 2007.

This Bill amends the Industrial Chemicals (Notification and Assessment) Act 1989 and provides legislative underpinning for the reform of cosmetic regulation in Australia, which has for the past several years been implemented on a limited, interim, administrative basis.

The proposed amendments to the Act are intended to:

• provide legislative underpinning for reforms to the regulation of cosmetics as part of the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) Low Regulatory Concern Chemicals Reform Program, and

• make minor changes to the legislation to improve clarity, increase consistency in the legislation and address minor technical anomalies or unintended effects of the legislation.

Labor anticipates that this Bill will have favourable outcomes for consumers, industry and Government alike. We are particularly supportive of this Bill because legislative underpinning of the regulatory scheme for cosmetics will provide clarity for all involved in the cosmetics industry in Australia.

By way of background, the National Industrial Chemicals Notification and Assessment Scheme (NICNAS) is the Australian Government’s regulatory authority for industrial chemicals including domestic chemicals, personal care products and cosmetics. The Scheme was established in 1990 under the Industrial Chemicals (Notification and Assessment) Act 1989 and is located within the Office of Chemical Safety in the Department of Health and Ageing.

NICNAS operates within a whole-of-government chemicals regulatory framework that consists of four assessment / registration schemes. In addition to the chemicals scheme operated by NICNAS, there are regulatory frameworks operated by the Therapeutic Goods Administration for medicines and medical devices; by the Food Standards Australia New Zealand (FSANZ) for food and food additives; and by the Australian Pesticides and Veterinary Medicines Authority for pesticides and veterinary medicines.

The overall aim of these regulatory structures is to provide for the health and safety of the Austra-
lian people whilst also protecting the environment.

NICNAS in particular works to encourage the safe and sustainable use of industrial chemicals, providing a national notification and assessment scheme that assesses both chemicals already in use, and chemicals new to Australia.

NICNAS assessment information is made widely available and assists state and territory OHS, public health and environmental agencies in the environmentally sound management of industrial chemicals. NICNAS assessments also provide risk and safety information to industry, workers and the public to promote greater awareness of the dangers of chemicals and advice on how to use them safely.

This Bill will amend the Industrial Chemicals (Notification and Assessment) Act 1989 to extend the current regulatory scheme for industrial chemicals to the regulation of cosmetics, administered by the Director of NICNAS.

Historically, cosmetics in Australia have been regulated within the Health and Ageing portfolio by both NICNAS and the Therapeutic Goods Administration (TGA). Under the Act as it currently stands, and reflecting the historical timing of the establishment of the respective regulatory agencies, a product is deemed a cosmetic if it is not a therapeutic good (medicine). This is determined with reference to claims about the product and its composition.

This approach for defining cosmetics by their exclusion as medicines has created a disconnect between Australian industries and some of Australia's trading partners in this sector. This approach has also led to differential regulation of broadly similar products. Under the Act as it currently stands, products classified as cosmetics are regulated by NICNAS, and include an environmental assessment of chemicals in cosmetic products, while therapeutic goods came under the TGA's regulatory umbrella and no environmental assessment is undertaken.

The move to reform the regulatory interface between cosmetics and therapeutic goods can be traced to the Australian Government’s November 2002 response to the Chemicals and Plastics Action Agenda, which included a commitment to consider and develop options for assessing and/or testing chemicals presenting low regulatory concern.

The NICNAS Low Regulatory Concern Chemicals Task Force was subsequently established to investigate the reform of the regulation of industrial chemicals of low regulatory concern. In acknowledgment of the particular regulatory challenges that cosmetics present, cosmetics were considered separately under this process, through the Low Regulatory Concern Chemicals (LRCC) Cosmetics Technical Working Group.

NICNAS and the TGA subsequently undertook an independent review of regulation of products at the cosmetic/therapeutic interface in 2004-05. A draft discussion paper, Review of the regulation of products at the interface between cosmetics and therapeutic goods, was published in March 2005 for public comment. Eighty-five written responses to this review were received from a wide range of stakeholders including representatives of industry, consumers, regulators, medical practitioners and healthcare interest groups. There was overwhelming support for the proposed reforms from a majority of respondents.

The Government’s response to the independent review was published on 1 November 2005 (the Regulation of Cosmetic Chemicals: Final Report and Recommendations) and the Cosmetic Reforms Implementation Working Group (IWG)—comprising community, industry and Government representatives—was established to finalise the NICNAS Cosmetic Guidelines.

The Cosmetic Guidelines consist of a set of “cascading” instruments which comprise:

- Criteria for Defining Cosmetics,
- a Table of Product Categories including mandated conditions to ensure compliance with performance or other standards as required, and
- a new mechanism for publicly identifying those chemicals that are prohibited or restricted for use in cosmetics in Australia.

The NICNAS Cosmetic Guidelines have provided the administrative basis for the interim regulation of some cosmetic products. According to the Explanatory Memorandum, permits have been issued by NICNAS which allow for the specified
product to be regulated as a cosmetic under the interim arrangements, provided that the product complies with the NICNAS Cosmetic Guidelines. This arrangement has now been in place for 12 months and over 200 products are subject to the arrangements.

The Government has cited a number of reasons for now seeking legislative underpinning of these guidelines.

Firstly, these interim administrative arrangements have only applied to a limited set of cosmetics – for example, skin-whitening products and anti-ageing products have not been subject to compliance. According to the Explanatory Memorandum, the system has been difficult to properly enforce and there is currently no capacity to penalise companies for non-compliance. There is also no capacity to charge fees from the regulated companies for cosmetic permits issued under the interim administrative arrangements, which the Government has argued is not consistent with best practice.

This Bill therefore seeks to implement the reforms on a legislative rather than an administrative basis and to extend the reforms to additional types of cosmetics.

The Bill establishes a system of notification and assessment of industrial chemicals to protect health, safety and the environment, and to provide for registration of certain persons proposing to introduce industrial chemicals. It provides for the Minister to determine standards, by legislative instrument, for cosmetics imported into, or manufactured in, Australia – having regard to Australia’s international obligations.

As I said earlier, Labor supports this Bill. The legislative rather than administrative underpinning of the NICNAS Cosmetics Guidelines will help to clarify the regulatory roles and responsibilities of NICNAS and the TGA with respect to cosmetic chemicals. The changes will increase the Government’s capacity to monitor and enforce compliance with the Guidelines and to take action in the event of non-compliance. A legislative rather than administrative framework will also provide greater clarity and certainty for industry, helping to reduce inconsistencies in the level of regulation for cosmetic products and removing subsequent barriers to trade arising from regulation.

Most importantly, regulation of cosmetics by NICNAS ensures consumer confidence in cosmetic products. All products regulated as cosmetics by NICNAS will require full ingredients disclosure on the labels (not currently the case for products regulated as therapeutics by the TGA) and will include an environmental assessment of chemicals in the cosmetic products (again not involved in a TGA assessment).

Consumers can be assured that cosmetics are subject to NICNAS oversight in areas such as the protection of public health, occupational health and safety and the environment.

In summary, Labor is confident that this Bill will help all parties involved in the cosmetic industry to maintain confidence in NICNAS’ regulatory processes.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.12 pm)—I thank Senator McLucas for her contribution. The Industrial Chemicals (Notification and Assessment) Amendment (Cosmetics) Bill 2007 presents amendments that deliver on the government’s commitment to reforming the regulation of cosmetics, providing more effective and streamlined regulation while also ensuring the continued safeguarding of health, safety and the environment. The second objective of the bill is simply the making of minor technical amendments to improve clarity and consistency within the Industrial Chemicals (Notification and Assessment) Act 1989.

In closing, I would like to acknowledge the strong support of all stakeholders for the proposed amendments and their ongoing cooperation and assistance in the development of the bill. As a result of the collaborative approach adopted by government, industry and other stakeholders and, indeed, the opposition—

Senator Murray—And us!
Senator MASON—and the Australian Democrats, I believe we have been able to achieve a very well-considered and appropriate piece of amending legislation. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

INTERNATIONAL TAX AGREEMENTS AMENDMENT BILL (No. 1) 2007

Second Reading

Debate resumed from 8 August, on motion by Senator Johnston:

That this bill be now read a second time.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.14 pm)—I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

CUSTOMS TARIFF AMENDMENT BILL (No. 1) 2007

Second Reading

Debate resumed.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.14 pm)—The Customs Tariff Amendment Bill (No. 1) 2007 contains minor amendments to the Customs Tariff Act 1995. The bill contains amendments to repeal the current subheading for binapacryl and creates a new subheading for this chemical. This amendment comes as a result of information received from the World Customs Organisation, acknowledging that binapacryl was classified incorrectly in the third review of the Harmonized Commodity Description and Coding System, which forms the basis of Australia’s customs tariff. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.

Third Reading

Bill passed through its remaining stages without amendment or debate.

CORPORATIONS AMENDMENT (INSOLVENCY) BILL 2007

Second Reading

Debate resumed.

Senator MURRAY (Western Australia) (1.15 pm)—The Corporations Amendment (Insolvency) Bill 2007 has been a long time coming. In fact, it has been nearly a decade since these measures were first discussed, and during that decade, which is most of my time in this place, I have been campaigning for amendments along these lines.

The Australian Democrats have worked hard to achieve a well-regulated corporate sector in Australia. It has always made sense to me that to have an effective corporate sector you must have a well-regulated, modernised corporate insolvency program. I proposed the inquiry, and the result was the June 2004 Parliamentary Joint Committee on Corporations and Financial Services report titled Corporate insolvency laws: a stocktake. It was a good report, if I may say so.

After two years, the coalition government responded favourably to that report, but it has still taken until late 2007 for the legislation to come forward. I do recognise that there was ongoing and quite considerable consultation between Treasury, ASIC and external stakeholders during that time, as well as the distribution of the exposure draft to the bill, and the committee report on that exposure draft earlier this year. However, it has been a slow process, and many Austra-
lians have been negatively impacted because of the delay in these reforms coming through.

In contrast to a determined and sprightly reform agenda for Corporations Law, the coalition has dragged its heels on insolvency reform. We have watched the misery on the faces of employees done over because their entitlements have been lost. We have seen the blight of phoenix companies in the building industry and property development. We have seen creditors and investors taken for a ride.

According to the Bills Digest, the purpose of the Corporations Amendment (Insolvency) Bill 2007 is to implement a package of reforms to improve Australia’s insolvency laws. There are six schedules to the bill, and the amendments to the Corporations Act by each schedule deal with the following reform themes.

Schedule 1 seeks to improve outcomes for creditors by: enhancing protection for employee entitlements; better informing creditor decisions; streamlining external administration; and facilitating pooling in external administration. Schedule 2 will implement measures to deter corporate misconduct. Schedule 3 has measures to improve regulation of insolvency practitioners. Schedule 4 includes measures to finetune voluntary administration in respect of rights to property during administration and liquidation following administration. Schedule 5 deals with miscellaneous amendments, including priority of administrative expenses in voluntary liquidation. Schedule 6 deals with transitional measures. According to the explanatory memorandum there is no direct revenue or financial impact from this legislation for the government.

Schedule 1 is welcome. Although it does not exactly reflect the recommendation of the Stocktake report, it does improve the position of employee entitlements. It does make it mandatory that the deed of company arrangement provides priority to employee creditors in a winding-up, unless the employees agree to waive the priority or the court makes an order differing from that.

I note that if a dispute arises, there is provision for creditors as a whole and eligible employee creditors to have the matter resolved by a court and the action can be initiated by the administrator so that an eligible employee creditor or an interested party is catered for. Although this is not ideal, and often employees may not feel in a position to initiate action to recover their entitlements, at least the avenue is now there and hopefully if an employee has been duped out of a significant sum of money then they would be motivated or able to bring an action.

The bill clarifies the way in which the superannuation guarantee charge should be treated in insolvency. The provisions ensure that the superannuation guarantee charge is given the highest priority, along with wages and entitlements that employees enjoy under the law. As has been pointed out, this significantly improves the recovery prospect of outstanding superannuation entitlements, if an employer becomes insolvent.

The bill also provides that insolvency practitioners will be under greater scrutiny and they must declare any prior advisory or other relevant relationships with the company to the creditors, and provide timely information on the fees they will charge. ASIC is working together with the IPAA on administrator independence. Although this is now enshrined in legislation, it has been part of the IPAA’s best practice guide since 2003. Such legislative change means that high-quality practitioners, who set the bar for quality work, will not have to change their practice at all, while those who have been
doing less than is required are now legally obliged to meet that standard.

The report from the Joint Committee on Corporations and Financial Services also looked at the practice of phoenix companies, where a company is established, it goes bust and assets are transferred to another company, those involved with the company continue trading in the second company, while the creditors of the first company are left high and dry. And then unscrupulous business people repeat the process again and again. These companies avoid their liabilities to their creditors and to their employees. This was a practice endemic in the building industry for many years and it appears now to have gravitated to the property development area.

In response to the Stocktake report, the government and ASIC established the Assetless Administration Fund. This fund was established to finance investigations by liquidators into cases where it appeared to ASIC that further investigation and reporting may lead to enforcement actions. This combined effort, using the skills of insolvency practitioners in the private sector, paid for through the Assetless Administration Fund, provides ASIC with information to identify and pursue misconduct by company officers in the lead-up to company failure.

According to ASIC’s website, in 2006 they banned 40 directors for a total of 144 years for engaging in misconduct following company failures and repeat phoenix activity. Of those 40 bannings, 15 were based on information provided by liquidators who received funding from the Assetless Administration Fund, and ASIC further banned 25 people as part of its efforts against phoenix activity. I point out that it was the corporations committee that first focused ASIC’s mind on phoenix behaviour. I commend the government for the level of funding that it is willing to provide to ASIC to continue with this important work.

When the Stocktake report came out in 2004, the committee was looking back at a couple of the most spectacular corporate failures in Australian history: HIH and OneTel. Now, as I make these remarks, we know that those two were not the end of it. In the last couple of years we have watched with some horror as Westpoint, Fincorp, Bridgecorp and others have collapsed, taking with them much of the life savings of those Australians who had invested in them.

Although this bill addresses one aspect of insolvency in Australia, there is still the ability of corporations to limit their liability by restructuring their companies using related companies to deprive creditors, including employees, of access to assets when a subsidiary collapses. In fact, this government at the end of the last sitting passed the Financial Sector Legislation Amendment (Restructures) Bill 2007, which created a legal mechanism whereby companies could achieve this through non-operating holding companies. As I have said previously, when companies were originally conceived, it was intended that they would provide a benefit of limited liability to their owners—namely, the shareholders. It was not intended that they should be able to be manipulated to allow for the separation of assets in one company and liabilities in another, resulting in those to whom money is owed having access to no significant assets to satisfy their entitlements or not being able to recover liabilities from the parent or holding company.

On behalf of the Democrats, I have several times over the last decade brought an amendment to the Senate in an attempt to implement the recommendations of the Harmer Law Reform Commission report in 1988. Harmer proposed making related companies liable for the debts of insolvent com-
panies in limited circumstances. With those limited circumstances it would still be up to a court to consider matters like the extent to which the related company took part in the management of the insolvent company, the conduct of the related company towards the creditors of the insolvent company and the extent to which the circumstances that gave rise to the winding-up are attributable to the actions of the related company.

Labor has supported these Democrat initiatives a number of times in the Senate, but for the same number of times the coalition has refused what I regard as an obvious reform. Its refusal continues to benefit those who wish to abuse the system. In the light of the new legislation before us and of the government’s refusal to adopt that particular aspect of the Harmer Law Reform Commission Report, this legislation is welcome, but I fear that it will not be as effective as it could be in the circumstances without the Harmer Law Reform Commission’s recommendation being put into law.

Since the Stocktake report of 2004, the government has been in ongoing consultation with a number of industry bodies and stakeholders, as was evidenced by the corporations committee March 2007 report on the Corporations Amendment (Insolvency) Bill 2007 exposure draft and the Corporations and Australian Securities and Investments Commission Amendment Regulations 2007 exposure draft. The committee commented that evidence received during that inquiry justified the committee’s decision to revisit a number of recommendations from its 2004 Stocktake report. I hope that the government will take them into account and respond favourably to them. In 2007 the committee reported that it found either in-principle or strong support for most of the recommendations rejected by the government from the accounting bodies, the IPAA and the Law Council. It is unfortunate these were not included in this legislation; it is unfortunate the committee’s recommendations have not been brought forward.

The main insolvency and accounting bodies endorsed the exposure draft bill and stated that it reflects much needed reforms. As I said previously, the IPAA have implemented some of the aspects of this legislation in their best practice guide already and should be commended for doing so. Although the committee recommended that the bill pass before the end of the financial year 2006-07, and although that was not achieved, I am grateful that at least this bill will pass prior to the calling of the election. I have deliberately, on behalf of the Democrats, ensured that this should happen in the non-controversial period of the Senate’s deliberations.

I note in passing that Treasury has confirmed that there is probably a need for additional amending legislation relating to insolvency to address new developments, in particular those arising from the collapse of the Sons of Gwalia. I am hopeful, as I am sure are many investors and employees in Australia, that these amendments will tighten the insolvency laws considerably and that future corporate collapses will not throw up too many more shortcomings in the legislation that need to be fixed. In conclusion, the Democrats support this bill in full.

Senator KIRK (South Australia) (1.26 pm)—I seek leave to incorporate a speech by Senator Wong.

Leave granted.

Senator WONG (South Australia) (1.27 pm)—The incorporated speech read as follows—

The Corporations Amendment (Insolvency) Bill is a belated response to a number of recommendations made in the 1997 Review of the Regulation of Corporate Insolvency Practitioners; the 1998 Corporations and Market Advisory Committee

Updated insolvency laws that adequately respond to business practices, provide more clarity for creditors and in turn reduce the cost of obtaining finance, are vital for a strong Australian economy. There is also the social impact of insolvency that should be considered. In 2003, the ACTU estimated that around 19,000 employees may lose up to $500 million in unpaid entitlements each year. Although other creditors may have other sources of income, employees are likely to be dependent on the wages they receive from the company and as such the impact on them is likely to be substantial.

Labor welcomes the Bill, however, a number of the changes proposed are well overdue. In particular, those relating to fine-tuning of administration processes implement CAMAC recommendations that date back to 1998. It seems extraordinary that the Howard Government has taken so long to deal with these issues.

The changes that arise from this Bill fall into four categories. These are: improving outcomes for creditors, including employees; deterring misconduct by company officers; improving regulation of insolvency practitioners and fine tuning voluntary administration procedures.

Outcomes for creditors are improved by the Bill in a number of ways. In the current system, employees are afforded a priority amongst unsecured creditors. However this priority can be displaced by a Deed of Company Arrangement. Employees have only a limited opportunity to challenge any change to this prioritisation in a deed in the event that their priority is displaced by a meeting of creditors. Changes in this Bill mean that it will now be mandatory for Deed of Company Arrangement to preserve the priority of employee entitlements when a company is in voluntary administration unless employee creditors agree to waive their priority.

The court may approve the employee creditors’ waiver and alter their priority in the Deed of Company Arrangement where it is satisfied that it would be more beneficial for employee creditors than immediate winding-up of the company.

Issues relating to the Superannuation Guarantee will also be clarified. Although the Corporations Act gives priority to superannuation contributions of employees, it has been held by the courts that the SGC, which is a statutory tax liability owed by the Commonwealth, cannot be characterised in the same way and therefore does not have the same priority.

As the SGC is related to superannuation payments and exists to ensure that the benefits for employees are received, there is a need to clarify and address the priority of the SGC in a receivership, voluntary administration or Deed of Company Arrangement, not just company liquidation.

Changes to the Superannuation Guarantee Act and the Corporations Act mean that SGC will receive the same priority as wages and superannuation contributions.

Rights of subrogated creditors, being those creditors who are entitled to be substituted for another creditor in a liquidation because they have advanced funds to meet a particular creditor’s debt, are clarified so that they have the same rights as original creditors even if an advance has not been made before the relevant date.

New disclosure requirements for administrators are introduced to address concerns about the independence of directors and make sure that creditors can make well-informed decisions when engaging administrators.

Administrators will be required to provide a declaration of any ‘relevant relationships’ and indemnities that apply to them, in a document which is a maximum of two pages in length.

Greater guidance will be given to courts to set and review remuneration of administrators and deed administrators.

A number of amendments are also made to streamline administration processes.

The requirement that a company in a creditors’ voluntary liquidation hold an annual members’ meeting will be removed as the economic inter-
ests of those members is not substantial enough when balanced against the cost of these meetings. However, if the liquidator chooses not to call an annual meeting of creditors, then they must lodge a report with ASIC on the progress of the administration and notify creditors that the report will be available to creditors free of charge.

In the case of a members’ voluntary liquidation, where the economic interest is generally greater, the requirement for an annual meeting is retained. Various requirements to publish notices and documents will also be made redundant unless there is a strong policy rationale for the publication of relevant documents.

The Bill will also allow various notices to be published together to reduce costs. Electronic communication will now be made available to administrators for the distribution of notices to creditors provided that certain conditions are met. Currently electronic distribution is only available to notify members of meetings.

In order to increase the opportunity to recoup funds for creditors, two types of pooling orders in liquidation, voluntary and court ordered, will be made available.

Voluntary pooling will be able to occur where the liquidator of a group of companies that are all in the process of winding up makes a determination that the group of companies can be pooled for the purposes of liquidation.

Courts will be empowered to order that a group of companies is pooled for the purposes of winding-up. An application for court-ordered pooling may only be made by the liquidator or liquidators of the companies in the group as each company in the group will be taken to be jointly and severally liable for each debt payable by and each claim against each other company in that group.

The Bill also puts forward a number of proposals to deter corporate misconduct.

ASIC will now be able to use its compulsory powers to investigate liquidator’s conduct if it has reason to suspect, for example, that they have failed to carry out or perform their duties.

Penalty privilege in relation to proceedings for disqualification, banning, suspension or cancellation orders or declarations to that effect, will be removed. This was one of the amendments sought after privilege was claimed in the High Court’s Rich v ASIC case where ASIC was unable to obtain certain documents in relation to the relevant orders.

Banning and disqualification orders, and orders to cancel or suspend licenses will help deter misconduct of company officers including in relation to phoenix company activity.

Insolvency practitioners will be better regulated under new provisions.

Prohibitions on inducements to members or creditors of a company to secure an appointment will now be extended to include persons such as directors, providers of professional services such as accounting and legal firms.

Registered liquidators will have to obtain and maintain professional indemnity and fidelity insurance to cover their work as insolvency practitioners.

The requirement that registered liquidators provide triennial statements to ASIC will be replaced with a requirement that a detailed statement be provided annually. This means that a liquidator’s suitability for registration will be reviewed more regularly.

ASIC will be able to cancel the registration of a liquidator automatically where the liquidator becomes disqualified from managing a corporation or by reason of bankruptcy and where the liquidator does not maintain their insurance. An application will no longer need to be made to the Companies Auditors and Liquidators Disciplinary Board (CALDB) first.

The CALDB will be given more flexibility to deal with disciplinary matters. For example, it will be able to hold a pre-hearing conference to determine procedural matters.

Small changes will be made to increase the efficiency of voluntary administration procedures.

New provisions will allow administrators to sell property subject to a lien, pledge or retention of title clause if they have the written consent of the property owner or security holder, or with the leave of court. Administrators will also be able to consent to transfer of shares if they are satisfied.
that it is in the best interests of the company as a whole.

The Bill will allow slightly longer periods to pass before the first and second meetings of creditors are required to be held. There will also be some slight amendments to change ‘days’ to ‘business days’ which will consequently affect the timing for things such as when notices for meetings must be given.

Labor notes the consultation with stakeholders in the insolvency area such as the Insolvency Law Advisory Group and the Insolvency Practitioners Association of Australia. And, as required by the Corporations Act, the amendments under this Bill have also been approved by the states and territories through the Ministerial Council for Corporations.

Labor supports this Bill in the interests of modernising Australia’s corporate insolvency regime. We reiterate our concern that the Howard Government has moved so slowly in relation to reforms in this area, particularly given the number of reports recommending changes dating back to 1997.

Senator MASON (Queensland—Parliamentary Secretary to the Minister for Health and Ageing) (1.27 pm)—I would like to acknowledge Senator Murray’s longstanding interest in the area of insolvency. I note his admonishment of the government’s performance and also his mild congratulations. I thank him for his contribution this afternoon.

As Senator Murray said, the Corporations Amendment (Insolvency) Bill 2007 contains a comprehensive set of reforms that will modernise our insolvency laws and assist Australian businesses. The bill will improve protections for employee entitlements. The bill also contains groundbreaking reforms in respect of corporate groups to reduce costs and improve returns without exposing creditors to new risks. I commend the bill to the Senate.

Question agreed to.

Bill read a second time.
has occurred under our government on average.

It is very interesting to look at some of the breakdowns of prices. Of course it is in the Labor Party’s interest to highlight areas where they claim certain price increases have occurred, completely ignoring the increase in wages that has occurred. The figures I quoted in relation to mortgages and wages were taken from CommSec; they are not government figures. They are produced by CommSec looking at the data available from 2002 to 2007. They do show that average wages have increased more than average rents. They do not like the facts, but those are the facts. Australians are to that extent in a better position because we have got policies in place that ensure that their wages increase faster than their prices and their costs, so they are better off under our government.

Have a look at some of the basics. As I said, the average wage over the last five years has increased by 25 per cent; whereas the CPI has gone up only 14 per cent. In 2002 the average weekly wage could buy 531 litres of milk. Today the average wage can buy 710 litres of milk. In 2002 the average weekly wage could buy 727 litres of petrol. Today the average wage can buy 1,293 litres of petrol. In 2002 it took an average wage earner 38 weeks to buy a new Ford Falcon compared to 34 weeks today. The facts are that Australians have, under our government, seen their wages rise faster than costs. You do not like the facts, but those are the facts.

Senator WONG—Mr President, I ask a supplementary question. Does the minister understand that Australian families with a $300,000 mortgage are now $433 a month worse off due to the nine consecutive interest rate rises under the Howard government? What benefit is it to these families if they can buy 700 litres of milk when they are facing an 88 per cent increase in childcare costs, a 45 per cent increase in petrol prices and a 20 per cent increase in food prices? Minister, aren’t these working families justified in thinking that the Howard government has broken its election promise to them to keep interest rates at record lows?

Senator MINCHIN—What we said to the people in 2004 was that interest rates for their home mortgages would always be lower under our government than they would be under the Labor Party, and we stand by that, and we will continue to assert that that is the case, that interest rates will be lower under us than they would be under Labor. The Australian people have the empirical evidence to substantiate that claim.

Opposition senators interjecting—

The PRESIDENT—Order! Senators on my left, come to order!

Senator MINCHIN—As I said, the standard variable home loan rate has fallen from 10.5 per cent when we came to office—what we inherited from Labor—to around 8.3 per cent today. That interest rate reduction would save around $449 per month in interest charges on an average new mortgage of $245,000. So there is all the evidence that under us interest rates are lower than they are under Labor, and that is proven empirically by our record in office and your disgraceful record in office.

DISTINGUISHED VISITORS

The PRESIDENT—Order! Before I call Senator Ronaldson, I would like to draw the attention of honourable senators to the presence in the chamber of a parliamentary delegation from the Republic of Latvia, led by His Excellency Mr Indulis Emsis MP, Speaker of the Saeima. On behalf of all senators, I wish you a warm welcome to Australia and, in particular, to the Senate. With the concurrence of honourable senators, I invite
the Speaker to take a seat on the floor of the Senate.

Honourable senators—Hear, hear!

Mr Emsis was seated accordingly.

QUESTIONS WITHOUT NOTICE

Economy

Senator RONALDSON (2.06 pm)—My question is also to the Minister for Finance and Administration, Senator Minchin. Will the minister inform the Senate of the importance of the government’s strong fiscal policy? Further, will the minister inform the Senate of the role played by the Charter of Budget Honesty in ensuring that our strong fiscal position is maintained? Minister, are there any alternative approaches?

Senator MINCHIN—I thank Senator Ronaldson for that question. It is well known that the financial position of the Australian government is the envy of the developed world. We are one of very few countries that has its budget in surplus as well as completely eliminating all government debt. And as senators know, 11 years ago, when our opponents were in power, the budget was in deficit to the tune of $10 billion annually—just about two per cent of GDP then—and the government was $96 billion in debt.

Yesterday we saw the opposition leader and shadow Treasurer give a joint press conference in which they were at pains to tell us there was no difference between the coalition and the Labor Party on fiscal policy. Of course, this is the latest instalment of the ‘me too’ Howard-lite strategy that we see from Mr Rudd. It is absolutely implausible to argue that there is no difference between the major parties on fiscal policy when one party spent its time in office running up deficits and racking up debt while the other has spent its 11 years in office running surpluses and completely eliminating that debt. The implausibility is compounded by the fact that federal Labor has spent most of its time in opposition opposing our efforts to reduce the deficit and get rid of the debt and state Labor governments are now busy racking up some $70 billion in additional debt.

The credibility of Labor’s claim to be just like us on fiscal policy is further undermined by their response to the Reserve Bank’s decision on interest rates. According to Labor this represents a major policy failure by the government and, therefore, by implication, would not have happened under Labor. But, of course, how on earth could that be the case if Labor’s approach to fiscal policy and monetary policy is exactly the same as the government’s, which is what they tell us? Both yesterday and this morning, Mr Swan informed us that Labor would avoid interest rate rises by spending even more money on skills and infrastructure. In other words, apparently Labor’s fiscal policy is not the same as the government’s, which is what they said yesterday; Labor actually stands for more spending.

Given that the government already spend $17 billion a year on education and training and $4½ billion on transport and communications infrastructure, we can only assume that the Labor Party plans a very big increase in these spending levels, although we have no idea how much that is going to be or how it would be paid for. And, of course, all of this new spending that Labor is talking about would be on top of the $43 billion that the GST provides to the states to spend on all their priorities, including, most importantly, infrastructure.

The ALP finance spokesman, Mr Tanner, yesterday implied that Labor’s new spending commitments were all going to be funded from reducing MPs’ printing allowances—I hope that has got the support of caucus—and taking DLOs away from ministerial offices. That is terrific. There are very serious credi-
bility issues surrounding Labor’s approach to the Commonwealth budget, and that is further undermined by Labor’s failure to commit to complying with the Charter of Budget Honesty by submitting its policies to Treasury and Finance for costing during the election campaign.

Mr Tanner told the Press Club yesterday that the opposition still could not make up its mind whether it is going to comply with the charter. But the Labor Party has never properly complied with the charter. In 1998, 2001 and 2004 Labor submitted only a fraction of its policies—mostly too late—to be costed by Finance and Treasury before polling day. So if Mr Swan and Mr Rudd want to claim that their fiscal policy is just the same as ours then they need to establish the true cost of all their policies by complying with the charter in the upcoming federal election. Their failure to commit to this completely destroys the facade of their fiscal credibility.

Interest Rates

Senator STEPHENS (2.10 pm)—My question without notice is to Senator Minchin, Minister representing the Prime Minister. Is the minister aware of reports that, because the government broke its election promise to keep interest rates at record lows, many working families will be forced to sell their homes? Does the minister have any advice for families reported in today’s press who are now having to give up things like a family pub dinner, brand name nappies for their children, a glass of wine after work or even driving to the shops? Is the government concerned that people like single mum Joanne Pagano from Sydney are considering giving up their family’s private health insurance because of increases to their already huge mortgage payments? Hasn’t life for many working families just got a lot tougher because of the government’s failure to honour its promise to keep interest rates at record lows?

Senator MINCHIN—We are determined to ensure that under us interest rates are lower than they would ever be under a Labor government. The Labor Party pretend to have exactly the same approach to monetary and fiscal policies as us, but there is one big difference: they would take us back to the pre-Keating era in industrial relations—the most extraordinarily backward step in the economic reform of this country we have ever seen, which every economist worth their salt has said will significantly increase inflation in this country and therefore increase interest rates. That is what will damage the people to whom the senator refers.

It is the ordinary working families of this country who will be damaged by the Labor Party’s approach to industrial relations because that will have a direct impact on inflation and therefore interest rates. Of course the government has sympathy for those Australians on low incomes who are having difficulty servicing their mortgages. Of course those Australian families do not like to see interest rates go up. But those Australian families have much worse to fear from a breakout of inflation—as has occurred under previous Labor governments and as is threatened by the debt binge that the state Labor governments are now embarking on.

And, while expressing that concern, we should keep this whole issue of housing debt in perspective. It is a fact that the Reserve Bank’s Financial Stability Review, conducted recently, does illustrate a few things about housing debt and housing finance that should be remembered. Household debt, according to the RBA, is concentrated among higher income households. Those in the top 30 per cent of the income distribution hold no less than 60 per cent of the debt. Those in the bottom 40 per cent of income distribution
hold just 10 per cent of the household debt. In fact, the median debt-servicing ratio for low-income households fell between 2002 and 2005.

It is also a fact, according to the Reserve Bank, that many households are ahead on their mortgage repayments. Just over 50 per cent of indebted households are ahead in their mortgage repayments. It is also a fact, according to the Reserve Bank, that property gearing ratios have fallen. The ratio of household debt to housing assets fell between 2002 and 2005. It is also a fact, according to the Reserve Bank, that the increase in overall household debt over the past decade is attributable to an increase in the number of people with an owner-occupier mortgage. That is particularly noticeable in the number of people with an owner-occupier mortgage in the 55 to 64 age group. Of course, they are the people who are making a deliberate choice to dip into the asset base they have in their home to take out loans.

I would also draw your attention to the issue of household arrears, which the Labor Party likes to talk about. In March this year, the Reserve Bank noted:

The various measures of loan arrears also suggest that the household sector is coping reasonably well with the higher levels of debt and interest servicing.

The ratio of non-performing to total housing loans with Australian banks is 0.38 per cent. The RBA notes that this remains lower than at any time in the 1990s and low by international standards.

Do not let it be said that the government does not have sympathy for those on low incomes struggling with mortgages. We do have sympathy for those people. Our concern is to ensure that we maximise their job opportunities. Today we saw unemployment staying at a record low of 4.3 per cent; thousands of new jobs have been created. That is our response. We will go on with the task of creating jobs, keeping inflation low and keeping this economy strong.

Senator STEPHENS—Mr President, I ask a supplementary question. I thank the minister for his response and note that he did not, for one minute, mention the growing number of distressed families having to deal with the mortgagee in possession sales of their homes. I ask: does the minister still claim, as the Prime Minister does, that working families have never been better off?

Senator MINCHIN—Australian families working or otherwise have benefited enormously from the extraordinary economic performance of this country under the Howard-Costello management of our economy. It is remarkable that after 16 years of continuous growth, 11½ years of those under us, we have the strongest economy that this country has ever seen.

We have unemployment at the record low of 4.3 per cent, a number that the Labor Party could only dream about. The party that professes to represent the workers put millions of people out of work and had one of the worst recessions this country has ever seen. The Australian people are benefiting from us keeping inflation low at 2½ per cent on average with real wages rising throughout our period in government. It is extraordinary that under your government, through you, Mr President, real wages effectively never rose in 13 years. You should be ashamed of your record in office.

**Employment**

Senator FISHER (2.17 pm)—My question is to Senator Eric Abetz, the Minister representing the Minister for Employment and Workplace Relations. Will the minister update the Senate on the latest employment data released today by the Australian Bureau of Statistics? Will the minister also outline
of the people of Australia and the people of
Australia will remember that those tough
decisions were opposed every step of the
way by the Australian Labor Party and more
importantly by their trade union masters.

We have moved to abolish the unfair dis-
missal laws of the Keating era. Labor will
reintroduce those laws. They will abolish the
Australian workplace agreements. They will
abolish all those reforms that have allowed
an extra 300,000 Australians to gain em-
ployment. That is the threat, Senator Fisher;
if I may address you directly. The real threat
is Labor coming into government undermin-
ing all those excellent reforms. What we will
see is a return to the union thuggery in the
workplace—union thugs like Kevin Harkins,
the man whom yesterday they were still de-
fending to the hilt over there, who today has
resigned as the Labor candidate for Franklin.

What did the Labor Party offer him to get
him out of the way, to get rid of the bad
headlines? What does Mr Rudd know about
that apparent law-breaking? For once, I hap-
pen to agree with Dean Mighell of the Elec-
trical Trades Union. When interviewed on
the ABC, he was asked about Kevin Har-
kins’s resignation and do you know what he
said? He said, ‘I think we’ve got the resigna-
tion from the wrong Kevin.’ He is right, be-
cause Kevin Rudd stood by Kevin Harkins
until yesterday. He said he was an excellent
candidate and he was worthy to represent the
Labor Party. The only reason that they have
now moved him aside is headlines. If they
get into government, wait for the cushy job
that awaits Mr Harkins. (Time expired)

Housing Affordability

Senator HUTCHINS (2.22 pm)—My
question is directed to Senator Scullion, the
Minister representing the Minister for Fami-
lies, Community Services and Indigenous
Affairs. Does the minister recall claiming in
question time on 22 March, 20 June and
again yesterday that the housing affordability nightmare was the fault of state and territory governments? What comfort does the minister think his blame game gives to young mothers like Lisa Jackson and Michelle Grice, of Glenmore Park in Western Sydney, who already spend a third of their family income on home loan repayments? What is the impact on housing affordability of nine interest rate hikes in a row? After five consecutive interest rate rises since 2004, aren’t working families right when they say that the Howard government is dishonest and has broken its promise to keep interest rates at record lows?

Senator SCULLION—I thank the senator for his question. As I said yesterday and have said before in this place—and I thank the senator for reminding all of us in this place of the government’s contribution in this regard—housing affordability is an issue that continues to affect particularly people who are paying off their own homes. It also applies to the area of rents. We have stated quite clearly in this place that the principal levers for making adjustments in this area lie with the states and territories. As I said yesterday, we have made a huge investment. Put simply, we invested a billion dollars a year over a 10-year period. I went into this very carefully yesterday, so I am surprised to get this question again today. That $10 billion—that is $1 billion a year—should have purchased 36,000 houses. Can you imagine if we had 36,000 extra houses for public housing? We would not have the housing affordability crisis that we have today. We provided $9.6 billion but we have fewer houses today than we had in 1996, because we invested in state and territory Labor governments and we asked them to commit to providing 36,000 houses and we did not get one extra house. I have to say that to come into this place and say—

Senator Chris Evans—What’s that got to do with the interest rates?

Senator SCULLION—I will get to that. They come into this place and say, ‘Look, for some reason or other the $12 billion in stamp duty and land taxes imposed on the cost of houses by the state and territory governments is something that the Australian people should just simply ignore.’ Well we on this side will not wear that, and neither will the Australian people. In 2004-05 $12 billion in stamp duty and taxes were collected, and it has gone up a great deal since that time. I will repeat that for the benefit of the Leader of the Opposition in the Senate: in 2004-05 $12 billion dollars of stamp duty and taxes were collected.

Senator Chris Evans—Is that the same as the $10 billion or is it a different $10 billion?

Senator SCULLION—No, it is indeed completely separate. We are talking about a $12 billion imposition of state land taxes and stamp duty in 2004-05. It is a Labor housing affordability tax. Yet Labor come into this place and start lecturing us about the impact of our policies. They come into this place and say, ‘What about interest rates?’ Every Australian should recognise that having to pay 6.5 per cent interest is different to having to pay 17 per cent interest. I know where every single Australian would like to be on this matter. What every single Australian needs to remember about housing affordability is that they simply cannot trust Labor.

Senator HUTCHINS (2.26 pm)—Mr President, I ask a supplementary question. Isn’t the fifth interest rate hike since the election going to make it almost impossible for young Australians and their families to buy their own home? What is the government going to do to make housing more affordable for working families?
Senator SCULLION—I know those on the other side do not use this tactic as often as we do, but we think that simply the provision of facts is extremely useful. All the indications from the Reserve Bank are that one-quarter—that is, 25 per cent—of owner-occupier borrowers are more than a year ahead in their scheduled repayments. So 25 per cent of people who are buying a house with a mortgage are more than a year ahead of scheduled mortgage payments. More than half of the people in Australia who are paying off their own homes—

Senator Wong interjecting—

Senator SCULLION—Please do not interject, Senator. Furthermore, 50 per cent of people are more than a month ahead in their repayments. I refer to an article in the Australian on 27 July which said:

The Reserve Bank estimates that less than 1 per cent of all home borrower households are more than 90 days behind on their repayments ... So 50 per cent of Australian households are ahead in their repayments. (Time expired)

Local Government

Senator IAN MACDONALD (2.28 pm)—My three-part question is to Senator Johnston as the Minister representing the Minister for Local Government, Territories and Roads. Firstly, is the minister aware of the outrage in Queensland over the processes adopted by the Labor government to force amalgamations upon Queenslanders? Secondly, what is the Howard government doing to assist people in regional Queensland to have effective local government representation? Thirdly, is the minister aware of any alternative policies?

Senator JOHNSTON—I thank Senator Macdonald for his question and acknowledge his efforts over a very long period to ensure not only that this issue is given the attention that it warrants but also that all that can be done is done by this parliament to ensure that this Labor assault on local government in Queensland does not succeed. It was only a few weeks ago that Senator Boswell raised this issue with me in this forum. All the opposition could do on that occasion was wring their hands. They simply do not care about representation at a local level. They do not care about this issue other than now running scared because Mr Rudd’s attack dog of the last month has turned to put the bite back on Mr Rudd and his federal candidates in Queensland.

The Howard government have made it clear that we will use the full limits of Commonwealth power to ensure that the people of Queensland have a say in the future of their local government. We will see, from the Labor Party’s proposal in Queensland, councils reduced from 156 to 72. It is not enough for Labor to be hatcheting local governments despite the obvious and real concerns of Queenslanders, particularly regional Queenslanders like those in Hervey Bay. Hervey Bay will be swallowed whole despite being one of the fastest-growing local governments in Australia. It is not enough to be swallowing up councils like that; they are so determined that they have threatened to make it illegal to conduct a vote on the issue. Can you imagine a government in Australia making it illegal for people to support their local government? We see hand wringing from the other side and now federal Labor candidates are screaming blue murder. They could not care less about fair and effective representation or local government because all they care about is their electoral prospects evaporating faster than Lake Eyre in a heatwave. That is what is happening in Queensland.

The federal government is totally committed to ensuring that Queenslanders have fair and effective representation, and has moved quickly to enable all Queenslanders to have their say in the future, particularly in regional Queensland. The government has al-
allowed the Australian Electoral Commission to undertake any plebiscite on the amalgamation of any local government body in any part of Australia. If local councils avail themselves of this democratic opportunity, the AEC will conduct, free of charge and at the expense of the Commonwealth, referenda or plebiscites about the amalgamation proposal of the Beattie government in any of the local government areas. The Commonwealth has made its position clear that, within the limits of our constitutional power, we will do whatever it takes to make sure that the people of Queensland have a say in their future representation and that the outrageous arrogance of Labor in Queensland is rejected. The Leader of the Opposition on this issue is John Howard’s echo. Today’s position for the Leader of the Opposition is what the Prime Minister said yesterday, and the only reason that the Labor Party are interested in this at all is that the focus group has suddenly told them that things are crook in Tallarook. The focus group has said, ‘You had better get out of bed because our candidates in Queensland are haemorrhaging.’ Have a look at them! Their Queensland response is hand wringing in the extreme. *(Time expired)*

**General Practitioners**

Senator FIELDING (2.32 pm)—My question is to Senator Ellison, the Minister representing the Minister for Health and Ageing. Bendigo is an important regional city of almost 100,000 people, but it has a chronic shortage of GPs. Bendigo only has one GP for every 1,800 people. Minister, what is the government going to do to address the major shortage of GPs so that the families of Bendigo can have good access to medical care?

Senator ELLISON—There are a number of initiatives that we have embarked upon in relation to the qualifications and training of doctors over a number of years. The Flynn scholarship is one initiative that I would point to for doctors who are going to work in regional Australia. I am not aware of the particular ratio of doctors to the general population in Bendigo—Senator Fielding has mentioned that—but I can say that nationally the number of full-time workload equivalent general practitioners rose by 2.2 per cent between 2004-05 and 2005-06. That is a positive growth in the supply of full-time equivalent doctors in regional Australia. There has been strong growth in GP activity in rural and remote areas, with a greater than 20 per cent increases in doctor numbers in the last 10 years.

We also have the Rural Retention Program, which is an initiative from the Commonwealth budget of 1999-2000. That program’s objective is to support, through targeted financial incentives, long-serving doctors in rural and remote areas that are experiencing difficulty in obtaining GP services. Eligibility and payment amounts are based on the length of service of individual doctors, the remoteness of the area they are practising in and the level of services they provide. Payments range from $5,000 to $25,000, depending on the remoteness of the location.

I am advised that we are putting extra medical training places into Bendigo which are in addition to the services and initiatives that I have mentioned, and we have general training across rural and regional Australia for GPs in those areas. The Rural and Remote Procedural GPs Program deals with that, and I understand that the program enables procedural GPs in rural and remote areas to access a grant to attend relevant training, upskilling—which is important so that doctors can remain abreast of the times—and skills maintenance activities. The program has two components: a grant of $2,000 per day up to a maximum of 10 days training per financial year for GPs practising
surgery, anaesthetics and obstetrics and a grant of $2,000 per day up to a maximum of three days training for GPs practising emergency medicine. These are very practical incentives for doctors in rural and remote areas of Australia, but my advice is that we are putting extra medical training places into Bendigo.

Senator FIELDING—Mr President, I ask a supplementary question. Bendigo is classified as zone 3, but government initiatives to attract GPs to rural and regional areas only apply to zones 4 to 7. That means Bendigo is competing against towns such Gisborne, Sunbury and Melton, which are only 30 to 40 kilometres from the city of Melbourne yet are classed as regional. Minister, will the government commit to reclassifying Bendigo to help to improve the number of GPs in Bendigo?

Senator ELLISON—We have put extra resources into medical training places for Bendigo. I understand there are some 30 extra places, so Bendigo is not being ignored. In relation to the administration of our programs, we have regard to the GP practising divisions across the country, but my advice is that Bendigo has some 30 extra training places.

QUESTIONS WITHOUT NOTICE
Child Care

Senator HUMPHRIES (2.38 pm)—My question is to the Minister for Human Services, Senator Ellison. It concerns the cost of child care. Would the minister inform the Senate of how Centrelink is delivering on the Howard government’s promise to assist Australian families with the cost of child care? Is the minister aware of any alternative policies?

Senator ELLISON—Centrelink and the Family Assistance Office are at the forefront of delivering the great benefits that we are providing to families, particularly working families, in relation to the cost of child care. Child care is of course a very important issue for Australian families. It affects around 700,000 families. Over the next four years, the Howard government is planning to spend some $11 billion on supporting families with child care. These initiatives are very important. The opposition has said much about the plight of working families. This is a very important initiative addressing the situation of Australian families.

There will be two significant changes to childcare benefits and rebates. Firstly, there will be a one-off increase of over 13 per cent to the value of childcare benefits from 1 July this year. As an example, this will see the maximum rate of childcare benefits increase for one child from $148 to $168.50 per week for full-time care. This means that, on average, a low-income family with one child in long day care will receive an increased benefit of $20.50 per week. The second measure relates to the childcare tax rebate. This will involve two payments this year to families that are eligible. There is the old system where payment was delayed and, in effect, you claimed your childcare tax rebate just under 18 months after the period that you paid for it. We have brought this forward to...
be eligible for payment the September after the financial year in which those payments were made. So this year the tax office is providing a rebate for the financial year 2005-06 and that is going out now to Australian families. But, in addition to that, the new system also kicks in, so from September onwards the Family Assistance Office will be making childcare rebate payments for the 2006-07 financial year. Thereafter, those payments will be made in the September after the financial year. We have cut in half the waiting time for Australian families for that rebate. That is a big plus for those ordinary working families who are eligible for a childcare rebate.

The new system will be streamlined. The payment of childcare benefits will be made by the Family Assistance Office mostly by electronic means to the bank accounts of families. That will see a streamlining of payments. I am not sure that the opposition thinks this is a big deal but I am sure that the average Australian family would think it is a pretty good idea to streamline payments and bring them forward. We are talking about around 700,000 ordinary working families in Australia who stand to benefit from increased payments, from more efficiency and from getting that benefit earlier. We are talking about around 700,000 ordinary working families in Australia who stand to benefit from increased payments, from more efficiency and from getting that benefit earlier. This is in stark contrast to when Labor was in power. When we came into government we increased by three times the benefits payable for child care compared to the previous Labor government. That is a track record that we are proud of. We will continue to deliver benefits to Australian working families.

Housing Affordability

Senator KIRK (2.42 pm)—My question is to Senator Scullion, the Minister representing the Minister for Families, Community Services and Indigenous Affairs. Is the minister aware of a report by the Urban Development Institute which says that only 39 per cent of households can now afford to buy a house in their local area compared to 96 per cent in 2001? Doesn’t the same report find that over one-quarter of houses are considered to be unaffordable for working families? What impact will the ninth interest rate rise in a row have on housing affordability? Can the minister confirm that it will in fact make homeownership an even more distant dream for working families?

Senator SCULLION—I thank Senator Kirk for the question. We have dealt with the issue of housing affordability on a number of occasions in this place. I think that we need to look again at the whole issue of housing affordability. I have spoken about it slowly and I have explained it in a number of ways, but perhaps we need to go back into the basics. It is all about the fundamentals of supply and demand. If we have a reduction in supply and a slowing down of land release, we will have an increase in red tape and we will also have the continued imposition that so many have commented on in this place of stamp duty and land taxes by the states and territories.

In terms of supply, the state and territory governments and local governments are essentially responsible for ensuring that we have the provision of land so developers can go ahead and develop land to provide houses. We also have processes of local government and state governments ensuring that there is a reasonable and well-planned release of land.

Of course, these are leverages that again lie with the states and territories. As we have said before in terms of housing affordability—this will be the second time today that I have referred to it—the Commonwealth government between 1996 and today provided the states and territories with sufficient funds to build 36,000 houses. Then the Labor Party, because it is the Labor Party,
come into this place and say to us, ‘How are people going to afford a home?’ They should be asking themselves because the Australian taxpayer—and it is the Australian taxpayer, not us—has provided Labor, through us, with $9.6 billion and we have fewer houses today then we did in 1996. This sort of question needs to be asked of the Labor Party, who are in control of the states and territories.

Perhaps if I can just break this down. When you buy a house and pay $350,000, you take your young bride, walk through the door and put her down on the other side, and just the stamp duty means it is worth $25,000 less. Also, immediately when you walk into your new house the land tax, which is the same amount as the stamp duty, means it is worth less. So when those on the other side—

*Opposition senators interjecting—*

**The PRESIDENT**—Order on my left!

**Senator SCULLION**—On top of that, to add insult to injury, local infrastructure costs on a house can add another 21.5 to 34.3 per cent to the cost of the house. These are fair dinkum ways under which you can raise the cost of houses. It is totally unnecessary. We have a further and continued imposition on the cost and affordability of housing in this country. It was the state stamp duties and the state land taxes that made up $12 billion in 2004-05—$12 billion that Labor decided to take from Australian families as Labor’s housing affordability tax.

**Senator KIRK**—Mr President, I ask a supplementary question. Doesn’t the addition of another $50 a month on top of already huge mortgage repayments put working families under massive financial strain? Aren’t these families already confronting massive increases in the cost of child care, petrol and food? Does the minister really think these families have never been better off?

**Senator SCULLION**—I thank the senator for her supplementary question. Let us look in a fair dinkum sense and an honest sense at what this government continues to contribute to the capacity for young families to buy their own homes and pay off their mortgages. As Senator Abetz has already indicated, the reason that so many people can afford their own homes today—and in fact, as I have indicated, 50 per cent of people who are paying off their own homes are paying in advance—is that so many people have a job. Real wages have increased by 20 per cent rather than going down 1.3 per cent under Labor. They went down over the same period of time under Labor, and now we have a 20 per cent increase in wages that effectively equates to a 20 per cent increase in the capacity for people to buy a home and pay for it.

The central aspect of the question was: what about interest rates? I can tell you, Mr President: this government is quite happy with 6.5 per cent rather than 17 per cent.

*(Time expired)*

**Centrelink**

**Senator SIEWERT** (2.49 pm)—My question is to the Minister for Human Services, Senator Chris Ellison. Could the minister inform the Senate how many people have been breached by Centrelink—that is, how many people on income support payments have been given an eight-week non-payment period—since the introduction of Welfare to Work in July 2006? Can the minister inform the Senate how many Indigenous people have been breached during this period and how that compares to the previous financial year?

**Senator ELLISON**—What I can say in relation to Welfare to Work is the great success we are having with the active engagement of those people who are seeking work. I do not have those figures available—and I
can provide them to the Senate—but I can say this: Centrelink does not breach someone simply on a whim. It is after there has been engagement with the person concerned. I have actually seen some of those interviews take place where people have come in with their job activity statement and have gone through the efforts they have undertaken to find work.

In relation to those who are having difficulty, we do have job capacity assessors. Both the Commonwealth Rehabilitation Service and other providers do fulfil that task where they can have one-to-one engagement and be relieved of those requirements so that they can become ready for work, and that can take a period of time—up to six months in some cases and even longer.

So, on the question of simply breaching someone who does not abide by those requirements of mutual obligation, it is not something which is done in a capricious manner. Centrelink, I believe, goes out of its way to ensure that the outcome is that someone gets a job. That really is the goal of Welfare to Work. The delivery of the welfare is a job. It is finding someone the means of gainful employment, enabling them to make a contribution and improve their own lot in life. It is not about trying to just breach someone and look for ways to find a default.

In relation to the actual number, I do not have those figures available to me. I will get back to the Senate with the numbers for that period of time that Senator Siewert is after.

Senator ELLISON—As I said, I will get the details that Senator Siewert wants. But can I say that we do have significant additional resources committed to our participation solution teams and also to our area participation teams. It is important that we get people back to work where they possibly can. If they need more extensive and intensive engagement, we do that through our job capacity assessment and they can be dealt with by the Commonwealth Rehabilitation Service or other providers. Certainly I understand Senator Siewert’s interest in the numbers. I will get that for the Senate. The important thing is the benefit that Welfare to Work is providing in finding outcomes for people by getting them back to work. We have seen that today with the increase in participation rate and unemployment falling to record 30-year lows—4.3 per cent today, a great result.

Broadband

Senator CONROY (2.53 pm)—My question is to Senator Coonan, Minister for Communications, Information Technology and the Arts. Can the minister indicate when the broadband contract with OPEL Networks will be signed? Is the BroadbandNow website correct where it says that the OPEL coverage will be independently tested in a laboratory before the government spends any money on the system? Can the minister advise whether this testing has now taken place? Given there are serious concerns about whether the OPEL network works in hilly and mountainous areas and when it is raining, can the minister also indicate whether the OPEL product testing occurred in a laboratory that contains hills and rain? Finally, can the minister guarantee that the testing was carried out using only a four-watt
power source, under which the new network is restricted to operate?

Senator COONAN—I thank Senator Conroy for the question. What I can say in response to the question is that about four watts is how you would describe Labor’s broadband plan!

Senator Abetz—It has got a lot more ‘whats’ than ifs about it!

Senator COONAN—A lot of ‘whats’! Unlike the Labor Party, the Howard government knows that you simply cannot deliver a state-of-the-art, national broadband network by issuing a press release. You cannot do it that way. It does take hard work and careful planning and management. We first announced funding for this initiative back in August 2005. We commenced a rigorous competitive assessment process in September 2006 to ensure that we achieved the best outcomes for Australians. That was many months before Labor woke up that broadband was an issue and had something to say about it and issued a press release.

On 18 June the Prime Minister and I announced Australia Connected, the latest milestone in our comprehensive policy of ensuring that all Australians have access to high-quality, affordable broadband wherever they live and wherever they work. The centrepiece of Australia Connected is the rollout of the new competitive, state-of-the-art broadband network that will extend high-speed broadband services to 99 per cent of the population and provide speeds of 12 megabits per second by mid-2009. These speeds are 20 to 40 times faster than those in use by most consumers today and will be delivered in the country at metro comparable prices.

Unlike the Labor Party, our agreement with OPEL will be signed sooner than the five years it will take for the Labor Party to deliver anything at all, because the Labor Party has said that Australians will be waiting around till 2013. This government thinks that consumers are going to need fast broadband before 2013, which is why we have developed a new, comprehensive, wholesale network—the OPEL network. It will be a network that will have the characteristics claimed for it. It will be a network that will be fully tested. Following negotiations—

Senator Conroy—Mr President, I rise on a point of order—that of relevance. I asked a very specific question to the minister. I appreciate she is reading her very specific brief, but I asked specifically when the contract would be signed, where it was being tested, when it was being tested and about some conditions. I would ask you to draw her back to the question.

The PRESIDENT—The minister has over a minute left to complete her answer.

Senator COONAN—Thank you, Mr President, and hopefully I will also get a supplementary question. This is an important matter. It is an important matter for Australians that they do have a new, high-speed, national, wholesale broadband that delivers in the way in which it has been tendered for and that it meets all the characteristics claimed of it. Obviously this is a contract that is subject to careful negotiation, and the negotiations are currently underway. If Senator Conroy is lucky, I will tell him when we sign it.

Senator CONROY—Mr President, I ask a supplementary question. Can the minister explain how she could have awarded a Broadband Connect Infrastructure Program contract to a company which has no spectrum, has never tested its product in a real-world situation, has no equipment to broadcast fixed wireless and could not confirm the geographic coverage of its own proposed network? Could she also answer the question that I asked previously, which was: when
will the contract be signed; and who is doing the laboratory testing, where and under what conditions?

Senator COONAN—I do very much appreciate the fact that these matters are very much on Senator Conroy’s mind, because of course the Labor Party has not been capable of putting forward any alternative broadband plan at all to the government’s comprehensive broadband plan and new wholesale network beyond a mere press release. We know, of course, Mr Rudd’s attitude to press releases. When asked if he would commit to the funding for the Mersey hospital, he said he only acts on evidence; and, of course, how could he possibly comment on a press release!

Senator Conroy—Mr President, I rise on a point of order. The minister has had nearly five minutes and has not once attempted to answer any of the specific questions that I have put to her. I ask you to draw her to the question.

The PRESIDENT—Senator Coonan, I remind you of the supplementary question.

Senator COONAN—The answer to Senator Conroy’s question is that negotiations are underway—and they are, of course, subject to some commercial confidentiality, as Senator Conroy would appreciate. Senator Conroy can while away the time. He can tell us what the Labor Party has in mind, issue some coverage maps and, after 4½ months, have something to say about Labor’s platform. (Time expired)

Senator Minchin—Mr President, I ask that further questions be placed on the Notice Paper.

QUESTIONS WITHOUT NOTICE: ADDITIONAL ANSWERS

Senator Heffernan

Senator MINCHIN (South Australia—Minister for Finance and Administration) (3.00 pm)—In response to a question from Senator Ray yesterday, I undertook to seek further information relating to the alleged activities of Senator Heffernan. Senator Heffernan has advised me that he has spoken to the manager of Cubbie Station on many occasions. It was immediately apparent to the gentleman in question that he was speaking to Senator Heffernan. In those circumstances, there is nothing at all to be pursued in relation to this matter.

Lucas Heights Reactor

Senator BRANDIS (Queensland—Minister for the Arts and Sport) (3.01 pm)—Yesterday Senator Nettle asked me a question concerning the production of nuclear medicine at the Lucas Heights Reactor, and I undertook to provide further information to her. The further information is as follows: the premise of the first part of the honourable senator’s question is incorrect. Nuclear medicines have been produced at Lucas Heights over the past 12 months. Nuclear medicines were produced in HIFAR until 30 January and were produced in OPAL until its recent scheduled shutdown for maintenance. ANSTO places the highest priority on ensuring the supply of medical radioisotopes. Radiopharmaceuticals are being imported to meet need. The premise of the second part of the question is also incorrect. There is no evidence to suggest that there are any design flaws within the reactor. OPAL is a cutting-edge research reactor that incorporates many unique features. It is not unusual to identify issues during the commission of a unique facility of this size and complexity. These issues were identified during routine maintenance, and ANSTO will continue to be dili-
gent and thorough in maintaining the OPAL facility.

QUESTIONS WITHOUT NOTICE: TAKE NOTE OF ANSWERS

Answers to Questions

Senator LUDWIG (Queensland) (3.02 pm)—I move:

That the Senate take note of the answers given by ministers to questions without notice asked by Opposition senators today.

What we face today is a simple question: do Australians have a government that is run on sound economic principles and rigorous policy development processes, working for the benefit of all Australian working families, or do we have a government with only one guiding principle that is defined by the marketing spin of research agency Crosby Textor? We have a government that will do anything and say anything to win office at the forthcoming election. That is what we have; we do not have the former at all. Let us look at the evidence that underpins that. It is clear that, in the face of continuing challenging polls, the Prime Minister, over recent weeks, flicked the switch to portray himself as a strong man aggressively attacking the states, as a proxy for the federal Labor Party, rather than taking on the federal Labor Party itself. Suddenly, we have a Prime Minister announcing major national policy initiatives via the internet—one of them on emissions trading. We have a government that is reaching out to cherry-pick opportunities for government largesse. That is what the government is now forcing itself to do. In another era—and the National Party would obviously recognise this—it would quite rightly have been seen as blatant pork-barrelling, all wrapped up in an attempt to redefine federalism.

But the commentators see through this. Indeed, some have called the Howard government’s approach ‘porkofederalism’. Here is what one senior commentator, Paul Kelly, had to say in the Australian yesterday:

… Howard will play a brand of federalism politics that is neither likely to work nor to endure as a template for governance.

The government is well and truly caught out by its agenda being set by its marketing strategy. But let us go back to Crosby Textor. Rather than having a long-running agenda for the nation that takes account of the needs and interests of Australian working families, we have total short-termism. It is a pity, it is a shame, but that is the corner this government has painted itself into. It is designed for only one reason: purely to get the PM across the line at the forthcoming poll. That is the only reason. Otherwise we would not have Crosby Textor out there, and we would not have the Prime Minister following those lines, one by one, to see how he can ensure his success at the next election.

But isn’t it ironic that, in the very week when Australian working families suffered their fifth successive interest rate increase since the PM promised to keep interest rates at record lows, they will also read on the front page of their newspapers the details of the Crosby Textor marketing strategy that underpins the Howard government approach? This is how it stands: working Australians are now juggling their family and work commitments, increased consumer prices, increased uncertainty over their working conditions and an increased realisation that their children and future generations will face major challenges from lack of adequate educational and other critical infrastructure—whether it be access to broadband, skills shortages, being able to access affordable skills and training, healthcare services or a market-driven insecure job market under Work Choices. Working families now face all those challenges under the Howard government.
What does the Prime Minister have to say about this? Let us listen to his words: ‘They’ve never been better off.’ It rings very hollow if you are in the western suburbs, the outer suburbs, of Brisbane, Cairns or Townsville—all of those places. ‘Never been better off’, when the press this week reported that people are forgoing payments on health insurance to have the money to pay their mortgage. ‘Never been better off’, when families have to give up some of the little luxuries they may enjoy when they want to go out, when they might want to go to the pictures or take their kids down to the local eatery—all of those things. This is a government that has grown out of touch over its 11 years. It has become arrogant.

(Time expired)

Senator BERNARDI (South Australia) (3.07 pm)—It is interesting to listen to Senator Ludwig talk about economic management and the benefits for families. Like many people in this place, I can recall when the only outing a family could really have under a Labor government was a trip down to the social security office to collect their unemployment cheque. There were not too many restaurants thriving under that circumstance. It was when unemployment in this country was virtually the highest it has been, certainly in recent history. We had interest rates averaging 12½ per cent under the former Labor government. And what do we have now? We have a circumstance where they are playing ‘me too’ politics: ‘We’re just the same on economic and fiscal policy as the Liberal Party, but we’re a little bit better.’ It is simply not going to wash with the Australian people. The Australian people understand that going to Labor in pursuit of economic policy is like having a decaf cappuccino in an attempt to stay awake: it is froth and chocolate, but there is no stimulus at all. Nothing in any of the policies that have been put forward by the Labor Party is going to create a better country or a more prosperous nation.

There are the working families of this country—and I note ‘working families’ because they are working, unlike they were under the Labor administration, when unemployment was so high. They were not working; people were going broke; they could not afford to pay for their homes. In fact, homeownership was terrible under the Labor administration. But today’s working families are awake to the master illusionists on the other side of the chamber. They are the David Copperfields of economic management. They have no policies; they only have smoke and mirrors to say, ‘We’re just like the others, but, trust us, we’re going to be a little bit better.’ How can we trust them when they have objected to every economic reform in this country that has delivered prosperity to so many Australian families? Unemployment is at record lows: 4.3 per cent. Owning a home, going on outings and enjoying the good things that this country offers start with having a job. Jobs mean a lot to families. People have flexibility in their workplace, so they can divide their time between their work and their family commitments. It allows flexibility so that people can enjoy everything that this country has to offer.

Of course, we have heard a lot today about interest rates. As I said, interest rates are lower under this government, and, since we took office, the official cash rate is still a full 100 basis points—that is, a full percentage point—lower than when we took office. This is after 11 years of sustained economic growth, where net household wealth has increased, the percentage of debt on housing assets has decreased, more people than ever before in this country have work, and people recognise that this legacy of prosperity can set us up for another decade of wealth accumulation in Australia. But only a coalition government can actually deliver on those
sorts of reforms. Only the coalition has an agenda that is going to set up this country for another decade of sustained economic growth.

So, rather than the ‘me too’ politics, the Kevin-come-lately politics of Kevin07, there is now a clear choice for the Australian people. They can go with the unreliable Labor people who have objected to every significant economic reform. I think it was Senator Ludwig’s father who described it as the worst caucus he had ever seen—or was that last year’s caucus? I cannot remember; there have been so many. Nonetheless, the same faces are there. They keep trotting them out because of their union mandated quotas. It is very sad that the Labor Party have not managed to evolve over the time, but the Liberal Party and the coalition government have. We are still setting a sustainable agenda. Our approach is not simply about housing affordability; it is about ensuring that people have well-paying jobs, lifting real wages and keeping interest rates lower than they would ever be under a Labor government.

What about the Labor Party’s response to housing affordability: ‘Let’s spend some more money and create another central housing commission.’ Nineteen-fifties central planning went out of the window in the 1950s. I know it is alive and well on the front bench of the Labor Party, but, really, the economic debate has moved on. Today is about giving people choice and opportunity, and only a coalition government is equipped to do that and deliver. (Time expired)

Senator KIRK (South Australia) (3.12 pm)—I rise to take note of answers given to questions asked by the Labor opposition today in relation to the economy. This week we have had the ninth interest rate rise since Prime Minister Howard has been at the helm of this nation, and it is the fifth since he promised to keep rates at ‘record lows’ at the last election. This interest rate rise is going to hit working families hard. With the cost of living pressures already straining many household budgets, yesterday’s decision by the Reserve Bank to lift interest rates will only add to already high levels of mortgage stress.

It is the case that yesterday’s rate rise has seriously damaged the Prime Minister’s economic credentials. It is going to make it very difficult for Australian families to believe anything that the Prime Minister says in the lead-up to this year’s election. Rather than making excuses and pointing fingers—which is what we saw today during question time, particularly from Senator Scullion, who, in answers to questions that I asked him, simply said that it is the fault of the states—this government needs to actually accept responsibility for its broken interest rate promises, get down to work and put downward pressure on inflation and interest rates.

All we see from the ministers of the Howard government, whether it be the Prime Minister himself, the Treasurer or the Minister for Finance and Administration, Senator Minchin, as we saw today, is their simply pinning the blame on the state governments. But it is pretty clear, and a number of commentators have pointed out, that there is very little direct linkage between borrowing by the government and interest rates. The Chief Economist of the ANZ Bank, Saul Eslake, in the Australian on 7 August said that very thing. A number of other commentators have pointed out the fallacy in the government’s argument. For example, in the Financial Review it was reported:

The Prime Minister’s claim that his government is in the clear because it is running a budget surplus and that it is all the fault of the states and their budget deficits is nonsense. Federal Labor, when we are elected to government, have committed ourselves to eco-
nomically conservative policies that will be directed towards keeping interest rates as low as possible. We have committed ourselves to keeping a tight rein on the economy and disciplined spending, and we have said that we will run budget surpluses, on average, over the economic cycle. Labor is committed to the independence of the Reserve Bank and its inflation targeting regime. The Leader of the Opposition, Mr Rudd, in his press conference earlier this week emphasised that we very much believe in the independence of the Reserve Bank and we do not intend to depart from that in any way when we are in government. What we have emphasised is that we will implement policies to fight inflation by tackling skills and labour shortages and infrastructure bottlenecks that push up business costs.

As I said at the beginning, this interest rate rise that we have seen this week is a very concerning development for Australia’s working families. And it seems from the comments that we heard here today in the Senate that the government is out of touch with the reality of working families and the pressures that are upon them. In the 11 years that the government has been in office, what we see is that whenever interest rates go down, Mr Howard and Mr Costello take credit for them, but whenever they go up, they refuse to take responsibility. It is certainly the case that Australian families expect a better response than the response that we receive from the Prime Minister and the Treasurer when it comes to changes that could be made to economic policy settings.

When it comes to fiscal policy, Labor has made it clear that it will maintain a doctrine of budget surplus. This does not mean increasing taxation as a proportion of GDP. (Time expired)

Senator BOYCE (Queensland) (3.17 pm)—I rise to take note of answers. I think the first thing I should be doing is acknowledging that the government does recognise that yesterday’s interest rate rise will cause disadvantage for some homeowners, but I think this is something that we definitely need to get into perspective. If you look at the most recent Reserve Bank Financial Stability Review you find that, in fact, the household debt is concentrated among higher income households. The top 30 per cent of high-income households have more than 60 per cent of the household debt. Those at the bottom 40 per cent of the income distribution scheme have just 10 per cent of that household debt. In fact, the median debt-servicing ratio for low-income households actually fell between 2002 and 2006. It is right now that those with the best ability to service their debt have the household debt.

As Senator Scullion, the Minister for Community Services, pointed out earlier, well over half of households that have mortgages are well ahead with their payments. In fact, around 25 per cent of people with mortgages are over a year ahead with their payments. And household debt to housing assets ratios fell between 2002 and 2005. This has been particularly pronounced in the low-income households, where gearing ratios fell around 10 percentage points in that period. Seventy-five per cent of indebted homeowners have a gearing ratio of less than 60 per cent. When these people have the ability to have jobs, as they do under our government, they can service that debt.

One of the most noticeable increases was in the owner-occupier mortgage group, and that has been in the 55 to 64 age group, an age group that was, effectively, cut out of the employment situation, out of income earning, under the previous Labor government. It has been particularly noticed that amongst the 55 to 64 age group they have a very low debt-servicing ratio—very low gearing ratios—compared to other homeowners.
Therefore, the biggest increase in the number of households with property debt is coming from people who have strong balance sheets and a strong ability to service that debt.

I would also like to speak briefly about the situation with arrears. The ratio of non-performing loans to total housing loans in this market is, at the moment, 0.38 per cent with Australian banks, less than half of one per cent. These standards have remained low right through the nineties and are very low by international standards. There has been a slight increase in mortgage sales, but that too has remained low. The basic fact here is that, under our government, interest rates remain an average four per cent lower than they were under the Labor government. People actually have the jobs and therefore the income to satisfy the loans that they have.

I would also like to briefly mention the flip side of this coin, the self-funded retirees—people who have paid off their mortgages over many years—who actually benefit from this small increase in the interest rate and therefore are in a better position to help fund their own retirement and to move into the future.

The question was asked earlier about the government attacking the federal Labor Party. If there were a real and substantial entity to attack, certainly the government would. At the moment we are looking at a miasma of me-toos and agreements about the federal budget, about housing and about the future of the economy. We talk about developing the future of Australia on sound economic principles. From everything we are seeing, the federal opposition is agreeing with the federal government that what we are doing is developing the country on sound economic principles. In general, people in Australia have never been better off than they currently are, with low tax rates and close to full employment. The housing interest rates are harming a few, but let us also look— (Time expired)

Senator HUTCHINS (New South Wales)
(3.23 pm)—Listening to the contributions this afternoon from the coalition senators confirms in my mind and, of course, with my colleagues that there must be two Australias, because the Australia I know from living in the outer suburbs of Sydney is not the same as the one that Senator Bernardi and Senator Boyce are referring to. The overriding view coming from the coalition that people have never had it so good is pretty much a disgrace. The front page of today’s Daily Telegraph in Sydney says:

The Lindley family of Kellyville have tightened their grocery bill, the Jacksons of Glenmore Park now walk to the shop to save on petrol. That is the result of these latest interest rate rises. Remember that during the election campaign in 2004 the Prime Minister said that he would keep interest rates at record lows. Since 2004, we have had five interest rate hikes. Since 2002, we have had nine. The latest interest rate hike means that if you have a debt of $300,000 you are going to pay an extra $12.50 per week. If it is $400,000 it will be $16.66 per week, and if it is $500,000 it will be $20.83 per week.

Senator Boyce said that this debt is all in the high end, but, as I said, my Australia is struggling. In Penrith, in the seat of Lindsay, mortgage defaults have increased by 25 per cent over the year. I understand that mortgage default insurance claims have increased by four times. We have a situation in those outer suburbs of Sydney, electorates all held by the coalition, where people are just walking away from their homes. And they are getting hit twice. The mortgage stress is currently there—the Australian Bureau of Statistics says that mortgage stress is measured by people having to contribute 30 per cent of their income to service their debt—but peo-
people are walking away from their homes in places like Penrith and south-west Sydney because to service that debt they are having to use not just 30 per cent of their income; it is now up to 37 per cent. With this latest rise I would not mind betting that it will go up to 40 per cent, 41 per cent or 42 per cent. People cannot live with that amount of income going to service that debt.

The other frightening thing that is occurring in western and south-western Sydney is that house prices are declining. People have borrowed $300,000, $350,000 or $400,000 to get a house in the west or south-west of Sydney, but that house is no longer worth what they borrowed for it. People who are in mortgage stress now are walking away from a house that they may have bought for $350,000, which is now worth probably $290,000, and for which they are still servicing a $350,000 debt. As I said, the people in western and south-western Sydney, in particular, are being doubly hit because of the current interest rate rises and what appears to be the callous and heartless approach of the government in failing to alleviate the difficulties people have as a result of this interest rate hike. As I said, there seem to be two Australias. The one I represent, where I live, is struggling. People like the family in Glenmore Park are walking to the shops.

Question agreed to.

Centrelink

Senator SIEWERT (Western Australia) (3.27 pm)—I move:

That the Senate take note of the answer given by the Minister for Human Services (Senator Ellison) to a question without notice asked by Senator Siewert today relating to Centrelink.

I draw the chamber’s attention to the comments made in Senate estimates on 29 May by Mr Carters from the Department of Employment and Workplace Relations when I asked him about the data on the number of Indigenous breaches. I asked:

Could you tell me how many Aboriginal and Torres Strait Islander people have been breached since 1 July 2006?

Mr Carters answered:

This data is actually on our website for the first quarter of Welfare to Work. For the quarter ending September 2006.

If senators care to visit the department’s website, they will see that the data for the September quarter is in fact no longer on the website and therefore not available to the public. If they look closely at the webpage, they will note that the page was last modified on 2 April 2007, which is nearly two months before Mr Carters assured me that the data was on the site. I am sure that, when I asked the then Minister for Human Services, Senator Ian Campbell, a question on these statistics on 26 February 2007, these figures were in fact on the site. You might ask yourself: why would a website be modified in April 2007 if it contained only data from the previous June?

Returning to my questions in estimates: I went on in that same session to ask Mr Carters for more recent figures, from later than September 2006, which he could not supply. He told me, basically, that it takes a little while to compile this data and that was why it was taking so long. When I asked when the updated data would be available, he told me:

... we are expecting to put the next quarter—and that is the next quarter, from September to December, mind you, 2006—up on the system fairly soon, so it is only a matter of weeks away.

I asked, ‘How soon?’ He said, ‘Weeks.’ I asked, ‘Weeks?’ He said:

Yes, as early in June as we can.

Now June has gone and so has July. This is unacceptable. It is also inexplicable. You
would think that it would be very simple and straightforward for Centrelink to compile that data and have it made available. We are talking about data from 1 July 2006 to 30 June 2007. You cannot tell me—and I do not believe for one minute—that the government do not know how many people have been breached under their new punitive Welfare to Work regime. This is supposed to be their shining new welfare reform approach, and they are telling me and expecting this chamber to believe that they do not know how many people have been breached. And then why take the existing available data off the website?

I can tell you that the data that was made available earlier this year, for the quarter to September 2006, showed a very alarming increase in the number of Indigenous people that were breached during that first quarter. For example, in Western Australia there was an increase of 133 per cent in the number of Aboriginal people breached. Do you think this could be the reason why the government are not giving us this information—that they do not want to demonstrate the fact that the number of people being breached under the new punitive Welfare to Work regime has significantly increased, particularly the number of Aboriginal people? To go by the anecdotal information that I am being told by people on the ground, they believe there has been a significant increase in the number of people being breached, particularly a significant increase in the number of Indigenous people being breached.

Anecdotally, I am being told on my travels that in fact there are rolling breaches because once an Aboriginal person has been breached and they have been given their eight-week no-pay penalty—particularly if they have to move to get support from families—they are not receiving letters that inform them what they have to do next, so they cannot therefore go in for their reinstatement interview and therefore are being breached again. There are rolling breaches or people simply dropping off the books. That is of course very convenient for the government because the government can then claim that those people have come off welfare and therefore have presumably got a job. That is not true: they have in fact come off welfare and do not have any income support.

I put to the chamber that this is in fact why the government are not presenting this data. Even if they have not got the data for the whole financial year, surely they have got the next quarter’s worth of data available. Again, it is not being made available to the community. That is very convenient, during the period of the debate on the NT intervention, when their own policies are driving people to be breached from their shining new so-called Welfare to Work reforms, which are not reforms at all, because they are harming the community that they claim to be protecting. Come on, give us the data. Where is it? (Time expired)

Question agreed to.

COMMITTEES

Environment, Communications, Information Technology and the Arts Committee

Report

Senator PARRY (Tasmania) (3.33 pm)—On behalf of the Chair of the Senate Standing Committee on Environment, Communications, Information Technology and the Arts, Senator Eggleston, I present the report of the committee on the provisions of the Communications Legislation Amendment (Information Sharing and Datacasting) Bill 2007, together with the Hansard record of proceedings and documents presented to the committee.

Ordered that the report be printed.
Membership

The DEPUTY PRESIDENT—The President has received letters from party leaders seeking to vary the membership of committees.

Senator SCULLION (Northern Territory—Minister for Community Services) (3.34 pm)—by leave—I move:

That senators be discharged from and appointed to committees as follows:

Environment, Communications, Information Technology and the Arts—Standing Committee—

Appointed—

Substitute member: Senator O’Brien to replace Senator Lundy for the committee’s inquiry into the provisions of the Water Bill 2007 and a related bill
Participating member: Senator Lundy

Legal and Constitutional Affairs—Standing Committee—

Appointed—Participating member: Senator Adams.

Question agreed to.

MIGRATION (CLIMATE REFUGEES) AMENDMENT BILL 2007

Second Reading

Debate resumed from 21 June, on motion by Senator Nettle:

That this bill be now read a second time.

Senator NETTLE (New South Wales) (3.36 pm)—It is with great pride that I stand here today to speak on the Migration (Climate Refugees) Amendment Bill 2007. It is the first time I have had an occasion to have my own private senator’s bill debated in the Senate, so it is a very exciting opportunity for me. I am really pleased about the opportunity to talk on this issue in particular—the issue of climate refugees. Right now we as a planet face a great threat: climate change. Climate refugees are a very important component of the challenge that climate change presents us as a global community. In March 2004, the Pacific Conference of Churches met on the atoll island nation of Kiribati. They discussed climate change and its likely effects for Pacific nations. Out of this came the Otin Tai declaration. That declaration begins this way:

Here on the small atoll islands of Kiribati, the impacts of human induced climate change are already visible. The sea level is rising. People’s homes are vulnerable to the increasingly high tides and storm surges. Shores are eroding and coral reefs are becoming blanched. The water supplies and soil fertility are being threatened by the intrusion of salt water. Weather patterns are less predictable, posing risks to fisherfolk and farmers.

Kiribati is not alone in its plight. Many other island nations in the Pacific are experiencing similar impacts of human induced climate change. Our peoples, who number about 7 million, are already suffering and are vulnerable to more impacts in the future.

This declaration from Pacific island nations went on, requesting that highly industrialised countries such as Australia do seven things. The seven things they request of us are:

1. Acknowledge [our] special responsibilities for the effects of climate change—take action immediately because the Pacific people are suffering, crying and dying right now
2. Reduce fossil fuel production/consumption and increase use of renewable energy.
3. Provide scholarship funds to students of the Pacific for higher educational level studies on the issue of climate change.
4. Ratify and implement the Kyoto Protocol
5. Increase budgets for adaptation programs in the Pacific
6. To implement the reduction targets specified in the Kyoto Protocol within the first commitment period

CHAMBER
7. To relocate and compensate the victims of climate change as requested by Pacific countries.

This piece of legislation that we are debating today, the Migration (Climate Refugees) Amendment Bill 2007, addresses this last point on the issue of climate refugees. Climate change induced environmental refugees are likely to be a big issue this century as the impacts of climate change occur and make many more places now inhabited uninhabitable for various reasons. We are perhaps now in the calm before the storm. The World Bank say that sea levels rising could displace hundreds of millions of people within this century. In a report released in February of this year, they concluded:

... the overall magnitudes for the developing world are sobering: Within this century, hundreds of millions of people are likely to be displaced by [sea level rise]; accompanying economic and ecological damage will be severe for many. The world has not previously faced a crisis on this scale, and planning for adaptation should begin immediately.

To date, however, there is little evidence that the international community has seriously considered the implications for population location and infrastructure planning in many developing countries. We hope that the information provided in this paper will encourage more rapid action on this front.

The Nicolas Stern report concluded that there could be between 150 million and 200 million climate refugees by 2050, and a recent Christian Aid report suggested 200 million to 250 million people will be displaced by climate change. Oxford academic and expert in this area Norman Myers predicts that by 2050 up to 150 million people may be displaced by the impact of global warming. This is a looming issue for Australia and the international community. Not many people have been directly displaced by climate change yet, but how we prepare for the challenge is an indication of how seriously we take the issue of global warming.

United Nations Secretary-General Ban Ki-moon has already identified climate change as one of the factors in the tragic Darfur conflict. He wrote recently in the Washington Post:

Amid the diverse social and political causes, the Darfur conflict began as an ecological crisis, arising at least in part from climate change.

Many climate refugees will be internally displaced. Some will be able to relocate and settle within their own country. This will place stress on infrastructure and may create social tensions and divisions. However, many will not be able to remain in their countries, and this Greens bill that we are debating provides a mechanism to assist them.

Alan Dupont and Graeme Pearman, in their report called Heating up the planet, for the Lowy Institute, state:

New migrants, regardless of whether or not they cross borders, can impinge on the living space of others, widen existing ethnic and religious divides and add to environmental stress in a self-sustaining cycle of migration and instability.

They continue in their report on how they see climate induced migration playing out:

First, people will move in response to a deteriorating environment, creating new or repetitive patterns of migration, especially in developing states. Secondly, there will be increasing short-term population dislocations due to particular climate stimuli such as severe cyclones or major flooding. Thirdly, larger scale population movements are possible that build more slowly but gain momentum as adverse shifts in climate interact with other migration drivers such as political disturbances, military conflict, ecological stress and socio-economic change.

In the Pacific, the small islands are especially vulnerable to rising sea levels associated with melting ice caps, the thermal expansion of the ocean and stronger storm
surges—all part of climate change. Already the Carteret Islands of Papua New Guinea are being evacuated. The Pacific island nations of Tuvalu and Kiribati are already starting to drown. Kiribati’s chief climate negotiator spoke to *New Scientist* in 2000 about the plight of his country. He said:

Apart from causing coastal erosion, higher tides are pushing salt water into the fields and into underground fresh-water reservoirs. In some places, it just bubbles up from the ground. This is making soils too salty for root crops and is polluting drinking water. We often have to bathe in salt water. You’ll know all about coral bleaching in waters which are getting warmer. But for us, this is not just an issue of biodiversity tourism. The reefs are where we get many of our fish. If the reefs die, so will our food.

Eight or nine house plots in the village that my family belongs to have been eroded away. I remember there was a coconut tree outside the government quarters where I lived. The beach all around it was eroded, and eventually it disappeared. But erosion is not the only problem for trees. The droughts are much worse than they used to be. We can go more than six months without rain these days. Now the new row of coconut trees is withering, too. Our elders say we have never had droughts that last so long. The droughts may be because of El Nino. But if the El Ninos are stronger, that must be part of climate change.

It is not just Tuvalu and other atoll islands in the Pacific that would be affected by climate change. Even mountainous Fiji will face a crisis when the sea level rise becomes severe. Much of Fiji’s productive land and urban areas will be flooded, which could lead to increasing ethnic conflict. The President of the Marshall Islands said in a speech in May of this year, ‘It won’t be long before our country is completely inundated.’ Again, the Kiribati chief climate change negotiator said in 2000: ‘Imagine standing on one side of these islands, with waves pounding on one side and the lagoon on the other. It is frightening.’

It is not just rising sea level that has the capacity to create climate change refugees in the near future. As the earth warms, precipitation patterns will change causing catastrophic floods in some areas and in other areas turning currently cultivable land into desert. Monsoons may change direction and strength and could fail to water the world’s breadbaskets. Mountain glaciers around the world are already shrinking at an alarming rate. The glaciers of the Himalayas are the source of major rivers such as the Indus, the Yangtze, the Mekong and the Ganges that currently sustain half the world’s population.

Alan Dupont and Graeme Pearman say that Australia should take the issue of climate refugees more seriously. In their report they say:

Australia and regional states need to give this issue more serious attention since three of the areas most vulnerable to sea level rise globally are in Asia and the Pacific (South Asia, Southeast Asia and low lying coral atolls in the Indian Ocean and the Pacific) and six of Asia’s ten mega cities are located on the coast.

This piece of legislation proposed by the Greens, which we are debating here today, equips Australia with the formal mechanisms to accept and process climate refugees. Many in this place may say that the effects of climate change are too far off to worry about now or that the scale of future climate refugees is too big for Australia to deal with alone. But Australia must and can set an example for the world. By supporting this legislation, we would indicate that we take the issue of climate change refugees seriously and that we are implementing mechanisms to deal with the issue. It enables us to do our part and we must do our part. Many in this place might think that sea level rise this century may only be measured in centimetres. Dr James Hansen, who is NASA’s chief climatologist, wrote in last month’s *New Scientist*:
I find it almost inconceivable that ‘business as usual’ climate change will not result in a rise in sea level measured in metres within a century. There is not a sufficiently widespread appreciation of the implications of putting back into the air a large fraction of the carbon stored in the ground over epochs of geologic time. The climate forcing caused by these greenhouse gases would dwarf the climate forcing for any time in the past several hundred thousand years.

I have asked questions at the last three Senate estimates inquiries about whether the Department of Immigration and Citizenship is doing any work on the issue of climate change refugees and the answer is consistently no. The Greens are concerned that the government is not taking this issue seriously. The governments of Tuvalu and Kiribati have approached the Australian and New Zealand governments on several occasions to request that we work with them to put in place a plan for the migration of their populations to Australia as their homelands become uninhabitable.

In 2001, the then minister for immigration, Mr Philip Ruddock, refused to meet with Tuvalu to discuss this matter. At around the same time the New Zealand government implemented its specific access category under which 75 people from Tuvalu and 75 people from Kiribati can migrate to New Zealand each year. That enables them to play a constructive role in actually taking on board the entire population of Tuvalu and Kiribati over a protracted period of time as a part of a way in which they can contribute to these Pacific island nations dealing with the issue of climate change and climate change refugees—climate change for which we have been so responsible and refugees created in our region in the Pacific. A senior Tuvaluan official said that, while New Zealand had helped out their neighbours, ‘Australia on the other hand has slammed the door in our face.’ This is the situation that we face.

The Greens’ climate refugee bill would help us to address these problems. It creates a new class of visa under the Migration Act called the climate change refugee visa. It grants the Minister for Immigration and Citizenship the power to assess an environmental disaster that has displaced people and to make a climate change induced environmental disaster declaration. Such a declaration may only be made by the minister personally. When considering whether or not to make such a declaration, the minister can give consideration to the geographical scope of the disaster; the possibilities for adaptation and the long-term sustainability of the area; the capacity of the country and neighbouring countries to absorb displaced persons; and other international efforts of assistance.

Such a declaration may include setting the number of visas that will be issued to people displaced by a declared disaster and the criteria as to how such displaced people would be accepted as climate refugees. This is the standard procedure by which we create new visa categories under the Migration Act in Australia. The Department of Immigration and Citizenship told the Senate estimates committee hearing that Australia would be able to accept people who were displaced by environmental disasters through the existing migration law.

This piece of legislation formally recognises and implements specific mechanisms by which Australia would assess and accept climate change refugees. Australia should be able to take several hundred climate change refugees per year from the Pacific island nations of Tuvalu and Kiribati if we look to the example that New Zealand has set us and consider our larger size. This would ease the pressure on these nations and prepare the way for their eventual evacuation as the ocean claims their countries.
Under this bill the minister for immigration would have the power to make a declaration that Tuvalu is suffering a climate change induced environmental disaster due to rising sea levels and more intense storms. The minister could, for example, set a limit and say that 300 Tuvaluans could be accepted into Australia as climate change refugees per year and could set out the process by which they apply and the criteria against which applicants would be assessed.

Climate change refugees are currently a minor problem, but they could become a major global crisis. Australia should raise the issue of climate change refugees within the United Nations. We should work with other nations to form a new international framework to deal with climate change refugees in a just, efficient and fair manner. The United Nations Convention relating to the Status of Refugees has provided a framework for the treatment, assessment and resettlement of refugees. Millions of people around the world have been provided protection, safety and the chance of a new life under this convention. Climate change refugees are not refugees under the definition that currently exists in the UN refugee convention. They seek refuge not from persecution—although that may be a consequence of climate change—but from an environmental disaster or are otherwise displaced by climate change. The Australian Greens have long held the position that the refugee convention should be expanded to include a category for environmental refugees. This would, of course, include the climate change refugees we are talking about today.

The Greens hope that this bill assists in providing some guidance and leadership towards a multilateral framework to deal with the issue of climate change refugees. Our priority must be to stop climate change by moving quickly towards a low-carbon economy. We know that our Pacific island neighbours do not want to lose their cultural connection to their land and do not want to be displaced as a result of rising sea levels due to climate change and be transferred en masse or in part to Australia or neighbouring countries in this area. We know that they would like to continue their connection with their land. Many people may stay until the last moment. We need to play a constructive role as the wealthiest country in our region and as a country that is responsible for producing so many greenhouse gases. We are one of the highest emitters of greenhouse gases on a per capita level in the world. We are the world’s largest exporter of coal. We need to take on the responsibilities that come with that of working in our region to ensure that there is a future for our Pacific island neighbours. That is what this legislation is about: it is about putting in place a process so that we can deal with the people who will lose their homes because of the contribution that we as a country have made to the global warming that is occurring. This is an issue of morality. This is an issue of responsibility. This is an issue that we, as a leading country in our region, need to grasp with both hands.

We need to play a constructive role in ensuring that there is a long-term future for our Pacific island neighbours. We need to assist them in the activities that exist in their countries now. But we also need to provide them with an avenue, a mechanism and an opportunity—in which we can support them—by which they can leave their country when the time comes that they have to. We are already seeing Pacific island nations like the Carteret Islands being evacuated as rising sea levels drown people’s homes. We need to be putting in place now a process by which we can help our Pacific island neighbours as this occurs over this period of time. This piece of legislation provides us with the opportunity to do that. I am proud to be introducing this legislation and debating it on behalf of the
Australian Greens. I ask the Senate to support it. (Time expired)

**Senator McLUCAS** (Queensland) (3.56 pm)—I am pleased to be able to speak on the Migration (Climate Refugees) Amendment Bill 2007 to raise concerns about the impact of climate change on the South Pacific islands. The purpose of this legislation is to create a new class of visa: a climate change refugee visa. The reasons motivating this bill are clear to us all—climate change is impacting now on the people of island nations in the Pacific. Labor recognise that our Pacific island neighbours face increasing environmental challenges arising from climate change. However, Labor note that there needs to be an international effort to deal with people displaced by the effects of climate change. Labor will establish an international coalition to resettle people displaced by the effects of climate change when a country becomes uninhabitable because of rising sea levels, damage to coastal infrastructure or reduced food security and water supplies as part of our Pacific climate change strategy. The bill before the Senate today prescribes a unilateral response to people displaced by climate change and undermines the principle of shared responsibility that Labor support. On this basis, Labor cannot support the bill in its current form.

Labor will show the leadership required in our region to assist our Pacific neighbours to prepare for and adapt to climate change. As I said, Labor have long recognised that climate change is real for the people of the island nations in the Pacific. In January 2006 Labor released a policy discussion paper on climate change in the Pacific entitled *Our drowning neighbours*. Its purpose was to promote discussion in the community about climate change science and the impact occurring now in the Pacific and to work with our own and the international community to find solutions. I take this opportunity to commend Mr Bob Sercombe, the member for Maribyrnong, and Mr Anthony Albanese for the work they did in putting this excellent document together. There are four key threats to our Pacific neighbours: rising sea levels, extreme weather events, collapse of ecosystems and the contamination of freshwater with salt water. The Pacific has some of the smallest and lowest-lying countries in the world. It has been predicted that climate change will lead to a rise in sea levels of between 14 centimetres and 32 centimetres by 2050. However, a small rise would have a devastating effect on many Pacific countries. Tuvalu faces the prospect of total inundation by rising sea levels—as do islands in Vanuatu, Kiribati, the Marshall Islands, the Federated States of Micronesia, and parts of Papua New Guinea.

King tides are already flooding islands across the region. The SEAFRAME project attempts to secure data on sea level change that is absolute. This means it ignores the role of land movement as a part of sea level shifts. The early data sourced from this study shows a rise in sea levels of 5.9 millimetres per year at the Tuvalu measuring station, 8.1 millimetres per year at the Manus Island station in Papua New Guinea and 15.5 millimetres per year at the Tonga station. This compares with the global average of a rise of between one and two millimetres per year. This is an imminent catastrophe for atoll states such as Tuvalu. Some Pacific leaders are declaring that it is already too late for their countries to be saved.

As I said, extreme weather events are also a threat. The increasingly volatile weather patterns associated with climate change are an immediate and rising threat to our Pacific neighbours. Deaths from weather related disasters have already increased in Oceania by 21 per cent since the mid-1970s. Cyclone wind speeds are predicted to increase by 10 to 20 per cent over the next few years be-
cause of their complex relationship with sea temperature. The projected increase in the power of tropical storms is compounded by the increased volume of tropical storms over the last 30 years. As the UN Intergovernmental Panel on Climate Change has stated, these extreme weather events pose a greater threat to atoll states as storm surges will cause greater structural damage and have ongoing adverse effects. Aside from the deaths, injuries and financial costs associated with storm surges, they cause widespread coastal erosion. Land space is already at a premium on the smaller Pacific islands, so they cannot sustain an ongoing loss of land.

Collapsing ecosystems are also of concern. Pacific societies are highly dependent on their ecosystems as their economies are often a mixture of formal exchange and subsistence practices. Unfortunately, Pacific island countries’ ecosystems are particularly vulnerable to climate change. One effect of climate change is the bleaching of reefs. Reefs are the foundation of atoll states as they break the impact of violent weather on the land, protect against coastal erosion from severe weather and also generate the material that replenishes coastal areas. Reefs are a secure location for fish stocks to breed and feed. Tuvalu provides an example of this interdependence. Its inner reefs, along with the lagoon, provide most of Tuvalu’s food. Reefs are vital to many Pacific island ecosystems, so their bleaching is a threat to the sustainability of their entire social ecosystems.

Contamination of freshwater with saltwater is an extraordinary and real threat to the future of these countries. Citizens on the Carteret Islands in Papua New Guinea are currently being moved because their health has been steadily deteriorating because they are losing access to freshwater and their gardens are being destroyed by advancing saltwater. The UN Intergovernmental Panel on Climate Change believes saltwater contamination is one of the most potentially devastating symptoms of climate change. The contamination of groundwater is a significant threat to our Pacific neighbours, reducing agricultural production and the basic availability of drinking water. It has been estimated that the freshwater supplies of some Pacific island countries could drop by up to 50 per cent.

The four key threats—rising sea levels, extreme weather events, collapsing ecosystems and the contamination of freshwater—are added to with a number of other threats. There is also the public health threat. Pacific island countries need to adapt to increasing vector borne and waterborne diseases—for example, malaria—caused by warmer temperatures. In Australia, for instance, the Australian Medical Association and the Australian Conservation Foundation have estimated that temperature related deaths could double in Australia to 2,500 deaths per year by 2020. These threats present a considerable challenge to individual countries, but they also present a challenge to regional stability and security. Climate change has the potential to destroy development gains in these countries and, according to a recent Pentagon report, climate change has the potential to destroy food systems and living conditions, leading to considerable instability, disruption and conflict. That is why climate change in the Pacific is an issue for Australia—for security reasons, not just for environmental or altruistic reasons. If Australia is committed to the stability and security of the Pacific, we have to deal with the impact of climate change in these countries.

Following the launch of our discussion paper, in July 2007 Labor launched a policy document entitled Assisting our South Pacific neighbours prepare for climate change. I commend the work of Mr Peter Garrett and Mr Bob McMullan, the shadow ministers respectively for climate change and envi-
environment and heritage, and international development assistance. The policy is comprehensive and has been well received. A Rudd Labor government will commit $150 million from Australia's international aid budget to assist our neighbours to prepare for and adapt to the effects of climate change. Federal Labor is committed to working with our neighbours to develop and implement climate change adaptation plans to minimise the impacts on our region. The poorest countries that are most vulnerable to the impacts of climate change are also those that have the least financial capacity to respond. Labor believes that, as a developed country in our region, we have an obligation to help our poorer neighbours prepare for and adapt to avoid the worse impacts of climate change. Unless we help our neighbours to adapt and act to avoid the worse impacts of climate change, the world will see millions of climate change refugees. As part of its international development assistance and climate change commitment, a Rudd Labor government will increase aid expenditure on climate change by $150 million over three years to fund initiatives on adaptation to climate change, with a priority on the Pacific islands and East Timor. We will assist countries to develop climate change adaptation plans, particularly low-lying countries and those susceptible to extreme weather events.

Labor will ensure that climate change is a key consideration in the design of Australia's aid program. Labor will develop a Pacific climate change strategy and build capacity for avoiding deforestation and for better forest management in the Asia-Pacific region. Labor will share Australia's scientific and technological expertise in climate change and ensure that the aid program also promotes the use of low carbon emitting technologies. Labor will increase support for non-government organisations that assist with the implementation of this new approach and we will participate in multilateral and bilateral programs of assistance. However, Australia's continued refusal to ratify the Kyoto protocol means that Australia cannot play a direct role in ensuring the allocation of funding under the protocol's adaptation fund to countries in our region. Labor will redress that by ratifying the Kyoto protocol.

Today I also want to take the opportunity in this debate to focus on another group of people who are concerned and fearful for their future because of the impact of climate change. These people are not our Pacific neighbours; they are Australians. They are the people of the Torres Strait. I have spoken before in this chamber about the impact of climate change on the Torres Strait, expressing the growing concern of Torres Strait Islanders about their future. I have been very fortunate in being able to go to the Torres Strait for nearly 20 years. Over that time, I have been able to meet with community leaders and members of the community. That has been extremely educational and a great opportunity for me. But, increasingly, when I have those meetings with community leaders, erosion and inundation from climate change is the No. 1 issue on their agenda.

The outer islands of the Torres Strait are a very beautiful part of the world. The scenery is almost like a picture postcard. The connection of Torres Strait Islanders with their land and sea country is strong and part of their everyday life. I remind the Senate that native title was found on Mer Island in the Torres Strait, underlying that absolute connection between land and sea. Climate change is affecting Australians living in the Torres Strait, like Papua New Guinean residents on Carteret and the people of Tuvalu and Kiribati. It is an indictment on our national government that very little is being done to assist them.
In April this year, I undertook further consultations with people living in the Torres Strait. I met with the Torres Strait Climate Action Network. I congratulate this group of extremely energetic and mainly young people who are committed to educating and working with their community to militate against climate change in the Torres Strait. I thank Mayor Pedro Stephen of the Torres Shire Council for the use of the council chambers for that meeting. The Torres Strait Climate Action Network raised a number of issues with me at the meetings that I held. They expressed concern that there was limited information on which to make assessments and judgements about what the impact had already been in the Torres Strait in terms of sea level rise and urged us to undertake a proper analysis of sea level movement in the Torres Strait. They are interested in funding possibilities for research, planning and implementation and for public education and information programs in the region.

In their minds there is also a need for bodies such as councils, the Torres Strait Regional Authority, non-government organisations and others to have funding to be able to provide local input into research. They said that there was a desperate need for specific research and data on the region. They said that it should include potential population and economic, social and political impacts. TSCAN suggests that it would be useful for the Torres Strait to become an integrated climate change research centre, especially given the amount of science that is already done in the region and the number of eminent scientists who have on-the-ground knowledge. They talked about their actions in their own community to encourage fewer emissions. They are exploring the opportunity to establish a community garden to mitigate the greenhouse gases emitted when food is transported all the way up from the south. They suggested that sustainable tropical housing should be trialled in the Torres Strait so that the use of air conditioners in particular might be lessened. They also suggested that climate change content needs to be specifically inserted into state and national school curricula. I commend the network for the work that they are undertaking with and for their community. They expressed the frustration that they are doing what they can up there in the Torres Strait but that it will all be for nothing without support from the federal government. They urged the government to start by, firstly, signing the Kyoto protocol.

I was fortunate to be able to visit four of the outer islands: Badu Island, Saibai Island, Yorke Island and Yam Island. The stories that I heard in those four meetings were very similar. The message from Badu Island was that all of the island councils are very aware and very concerned but that they need more information on the causes and impact of and the possible solutions to climate change. There is a widespread view that the weather and the seasons are becoming less predictable, and that message was given to me on each of those four islands. It was said that traditional methods of predicting the weather and the seasons do not work now. The council on Badu Island was worried about the impact of climate change on future marine resources, specifically crayfish and fish stocks, and their migration patterns. There was also a concern about an increase that they have observed in silt and mud in the water; although, there is a view in the central islands that increased trawling may be part of the reason for that.

At Saibai Island, which is a mud island very close to the Papua New Guinea border, the immediate concern was the repair and extension of the seawall. I have spoken in this place before about the inundation that has occurred, particularly in February 2005, when we had king tides. They are using
CDEP for some of the work, but they recognise that the funding is inadequate and described it as a ‘bandaid on a seawall’. The highest point on Saibai Island is only 2.7 metres above sea level, so they are very concerned.

I had a breakfast meeting with the Yorke Island Council, and I thank the council for their hospitality. They have done some significant work with James Cook University and the Queensland government through the Environmental Protection Authority to look at erosion issues there, as had the people of Yam Island. But all agree that more needs to be done to assist these communities.

I want to place on record again my thanks to the people of the Torres Strait for their hospitality during this recent visit. I will continue to work with the people of the Torres Strait to ameliorate the effects of climate change, particularly to actively investigate every option to avoid the need for relocation of the people of the Torres Strait onto the mainland.

Senator WORTLEY (South Australia) (4.16 pm)—I rise to speak on the Migration (Climate Refugees) Amendment Bill 2007. Addressing the issue of climate change is a genuine priority for Labor. We believe there are many measures that urgently need to be put in place if we are to limit the impact of climate change globally, including on our nation and on our neighbours, many of whom are vulnerable on a number of fronts.

As we consistently see in surveys, our constituents across the country rank climate change policy as crucial to the future wellbeing, security and prosperity of our nation and our planet—and they are spot on. The Australian people are worried about the government’s interminable inaction on this issue. They are worried about the irreparable damage this environmental blight already has wreaked on our world and, even more so, about the devastation it will bring in the future.

That serious concern is understandable, given that 600 scientists from 113 nations, including 42 from Australia, on the United Nations Intergovernmental Panel on Climate Change have found:

When it is awake, even if only for a moment, this government does not really know what it believes about climate change and emissions trading.

In contrast, Labor believes climate change is a real and immediate threat. While those in power have been idle and indifferent, on this side we have been asking the questions, putting forward ways to address environmental issues, moving amendments and introducing bills. Not surprisingly, the will and wishes of the Australian people are behind us on this issue. In fact, they are trying to do more than the government about global warming on a household by household, workplace by workplace basis. Right across Australia in homes and businesses, people are recycling, switching on to solar power, being water wise and conserving energy in greater numbers than ever before. While the government treats climate change as though it is a minor irritant, Australian families are not in any doubt about its importance. This should not shock anyone—we know the government is out of touch with the population it is meant to represent.

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Warming of the climate system is unequivocal, as is now evident from observations of increases in global average air and ocean temperatures, widespread melting of snow and ice, and rising global average sea level.

We also have been warned in Australia responds: helping our neighbours fight climate change, a report by Australian environmental and aid non-government organisations, that unless our government acts now any efforts to help lift our poorest neighbours out of poverty will fail.

Despite having lower populations than their developing counterparts, industrialised countries are responsible for 76 per cent of the world’s historical emissions, according to World Resources Institute estimates. In the first year of this century, emissions by industrialised countries were listed at 14.1 tonnes per person, not including land use change. This figure is more than four times the per capita output of developing nations, which emit an average of 3.3 tonnes per person.

As if developing countries do not have enough to struggle with, it is predicted that climate change will increase drought in Africa; hit the populous delta regions of the Mekong and Bangladesh with sea level rises; cause the further retreat of Himalayan glaciers, meaning worsening water shortages in China and India; and degrade the forests, farming land and fish stocks that many impoverished families rely on for their survival. Of course, then there is the increase in death and disease predicted as mosquitoes thrive and heatwaves, hurricanes and floods occur with ever-increasing frequency and ferocity.

As water suitable for drinking dries up and the scourge of malnutrition takes an even-greater and more tragic hold of the children of Africa, climate change effects will reach cataclysmic proportions. It is predictable that there will be ever-increasing numbers of climate change refugees as environmental disasters become less isolated and more frequent.

Labor recognises that our Pacific island neighbours face increasing environmental challenges arising from climate change. However, Labor notes that there needs to be an international effort to deal with people displaced by the effects of climate change. Labor will establish an international coalition to resettle people displaced by the effects of climate change when a country becomes uninhabitable because of rising sea levels, damage to coastal infrastructure or reduced food security and water supplies. This will be done as part of our Pacific climate change strategy.

It is the very survival of our planet as a viable and healthy life host that is at stake. We can and must act now. Last year’s Stern review is true to its name when it comes to making the point about the necessity for, and responsibility of, prosperous countries to work with less wealthy nations. It says:
The poorest developing countries will be hit earliest and hardest by climate change, even though they have contributed little to causing the problem.

Their low incomes make it difficult to finance adaptation. The international community has an obligation to support them in adapting to climate change. Without such support there is a serious risk that development progress will be undermined.

And Stern is no orphan among leading international reports. The world needs hope and we are in the position of being able to do something about it. If we do set out on a path towards meaningful action, the resulting benefits will not just be environmental—there will be significant rewards on the economic, diplomatic and security fronts, too. But this government, it appears, is simply not up to meeting the immense and burning challenge climate change presents. One suspects the too-hard basket is looking decidedly full.
and the heat in the kitchen has become unbearable. In stark contrast, Labor is ready to hit the parched ground running.

On this side, we understand the urgency and the desperate need for action. A Rudd Labor government would immediately ratify the Kyoto protocol, sending the world an unpolluted view of our serious, unwavering pledge to be part of the global climate change solution rather than continue to undermine international efforts. Signing on to the protocol will also give Australia a position of influence when it comes to moving forward in partnership with other nations. Labor will adopt a 60 per cent emission reduction target by the middle of the century and set up a carbon trading scheme, among other measures.

Under Kevin Rudd we will increase aid expenditure on climate change by $150 million over three years. This will be targeted at helping our poorer neighbours prepare to cope with the effects of climate change. In particular, Labor will assist countries most susceptible to extreme events, including those in low-lying regions. Labor will work with Pacific nations to analyse, plan and implement the necessary measures. To deliver these ends, Australia will team up with the World Bank, the Asian Development Bank and other developed nations in the region. Labor will make sure our national aid program reflects our commitment to climate change considerations, promoting through it the use of low carbon emitting technologies.

We recognise, too, that better forest management in the Asia-Pacific is a key element in a cleaner, greener future. Within the structure of the World Bank’s Forest Carbon Partnership Facility initiative, Labor will head a new global deforestation initiative. We believe investing in the life-giving rainforests of the world is crucial, but we will not wane in our focus on slashing our own emissions. Under Labor, Australia will share its technological and scientific knowledge for the betterment of all nations. We believe establishing a Pacific climate change centre would benefit the region by monitoring, measuring and forecasting climate change developments. Labor will also give backing to non-government organisations to help deliver the different, deliberate and determined plans and programs needed.

A Rudd Labor government will give substantial and significant support to the international foundations, including the Least Developed Countries Fund, the Special Climate Change Fund and the Adaptation Fund, already in existence to help developing countries adapt to a world darkened by the climate change spectre. Australia’s contributions to these funds in the past have been an embarrassment. The time for action is well and truly upon us. We must work on recovering lost ground by taking the lead when it comes to reducing the world’s emissions. Only in this way and by committing to a comprehensive, considered and collaborative plan into the future will we avoid the worst impacts of global warming and climate change on our planet.

The bill before the Senate today prescribes a unilateral response to people displaced by climate change and undermines the principle of shared responsibility that Labor supports. On this basis, Labor cannot support the bill.

Senator IAN MACDONALD (Queensland) (4.27 pm)—I am very interested in the Migration (Climate Refugees) Amendment Bill 2007, although it has only recently been drawn to my attention. I will ask some questions in the committee stages of the bill on just how it would operate, because a cursory look at the terms of the bill suggest to me that it would be wide open to abuse and that it really has little to do with climate change, immigration and visas but a lot to do with the
Greens normal stunt-like approach to parliament and their policies. In the committee stage I will be very keen to ask some questions and try to get some answers.

I want to generally indicate that the Australian government over a succession of environment ministers, and particularly under the current environment minister, has been not just very concerned about climate change but actually doing things about it. I reiterate a point I always make: the Labor Party and others have come to this debate recently because focus groups I think have indicated to Mr Rudd that this is an important issue. Labor has a focus group approach and answer to climate change.

In contrast to that, the Howard government has been looking at this issue since the former Minister for the Environment and Heritage, Senator Robert Hill, initiated the Australian Greenhouse Office back in, I think, 1997. As I recall, the Australian Greenhouse Office was the first government agency of that type to be set up anywhere in the world to address the issue of climate change. So, unlike Mr Rudd, who has come to this issue because focus groups have told him to do that in the last 12 months, the Howard government has been addressing this issue for 10 years or more. The Greenhouse Office has been very well funded to do its work. The Australian government has financed any number of initiatives—it would take the whole of my 20 minutes to go through them—at very great cost to the taxpayer. But I think the taxpayers, along with the government, are happy to have spent the money because what we have achieved has been important.

It is also very important to highlight that this is a global problem. Australia produces less than two per cent of the world’s greenhouse gas emissions. If you turned off every electric light bulb, shut down every power station and closed every mine in Australia tomorrow, the greatest impact that would have on greenhouse gas emissions would be about 1½ per cent. It would still leave a real problem for the globe, in that 98.5 per cent of greenhouse gas emissions would continue to pollute the world. So Australia’s principal contribution to mankind is to try to get the big emitters—China, India and the United States—to the table so that some sensible program can be agreed upon and implemented to stop global greenhouse gas emissions.

Some of our respected and supposedly responsible politicians are determined that Australia should damage itself economically for a result that would not make one iota of difference to greenhouse gas emissions and, therefore, climate change. They are determined that Australia should destroy itself economically without making any real contribution to climate change. What we have to do is try to convince those big emitters—and, in that way, we can make a real contribution to the climate change debate. Notwithstanding that Australia is such a small emitter, we have done more, proportionally, than most other countries to address greenhouse gas emissions and climate change. The programs the government has been involved in have contributed very substantially to that.

Mr Rudd’s current policy—I think it is still his current policy—is to sign up to the Kyoto protocol. But I suspect that will not be his policy after he speaks to the Bowen Basin miners, members of the CFMEU, who, along with me, recognise that Labor’s policy of signing the Kyoto protocol is a ridiculous response to climate change. Signing a bit of paper will not make one iota of difference to climate change. In fact, a lot of the countries that have signed the Kyoto protocol have done nothing. I think 167 countries signed onto the Kyoto protocol—and only 34 of them have attempted to reduce greenhouse
gas emissions. Even those who had the best intentions have not reduced their greenhouse emissions as they agreed to do at Kyoto. Indeed, Australia is on track to meet its target of reducing its greenhouse gas emissions to 108 per cent of 1990 levels. We are one of the few countries that are doing that. Signing the Kyoto protocol will not make one iota of difference, yet that seems to be Labor’s main policy approach: sign a bit of paper and the world will be all smiles again. That is just ridiculous, but it is typical of the focus-driven policy approach from the Labor Party at the present time. They are focus driven on everything, it seems, except tax policy. Their only tax policy is to have no policy at all.

Opposition senators interjecting—

Senator IAN MACDONALD—I hear the members opposite laughing. Perhaps they can tell me I am wrong. Perhaps they can tell me when their tax policy is going to be released. We would be very keen to see it. My understanding is that the opposition’s only pronouncement on tax policy is that it will not have a tax policy—and I suspect that is also something Mr Rudd has picked up from focus groups. We in Queensland know how Mr Rudd operates. He was the adviser to Premier Goss when he shut down any proposal for getting decent water supplies to south-east Queensland. There is a crisis now, 10 years later, because, when Mr Rudd, as head of the Department of the Premier and Cabinet, was advising Mr Goss, they decided to stop any proposals that the National and Liberal governments had put forward for a proper water supply in south-east Queensland.

The interjections from the other side have diverted me from the bill before us. Before getting into the bill, I want to raise a couple of issues. This bill is predicated on the fact that climate change is going to cause disasters in many communities around the world and that there will be a need for a higher level of migration of people as a result of that. Could I just point out that sea level rise is a long-term challenge for our region which scientific evidence tells us does not present an immediate danger of displacing entire Pacific island populations. Sea level rise is a complex issue, and all of the factors need to be understood and reported accurately. Inundation of Pacific islands could be caused by factors such as land subsidence, tectonic subduction, natural climate variability, El Nino, tropical cyclones and the like, long-term tidal cycles and land use patterns. Climate change is only one variable in this mix.

We as a government, as a nation, are providing more than $42.25 million in practical assistance to Pacific island countries to deal with climate variation and sea level rise by monitoring sea levels, improving climate prediction, assessing vulnerability and planning adaption action. In the 2007-08 budget, the government announced $7.5 million for the UNFCCC’s Least Developed Countries Fund to help some of the poorest countries, including some of these Pacific island countries, to assess and adapt to the impacts of climate change. I should mention that at the, I think, 2005 Pacific Island Forum, the Prime Minister and the other Pacific leaders agreed to consider measures to address population dislocation should a genuine need arise.

The Australian government, as you know, Mr Acting Deputy President Lightfoot, have a long record of responding generously when needs arise in the Pacific, and we will continue to do so. Further, it is important to point out in the context of this bill that our current migration program is designed to serve economic, social and demographic objectives. We also have a substantial humanitarian program which resettles people who have been subjected to persecution or gross violation of human rights in their home countries. The global climate change phe-
nomenon is a focus for all governments. We are strongly engaged in global dialogue on this particular issue. It is not appropriate to speculate on how our government might respond to possible future environmental challenges in the region—that is a matter for negotiation with other regional governments—but any responses will be consistent with our role as a responsible global citizen. The government manages a range of aid programs designed to assist developing countries in our region.

At times, questions have been asked about why Australia is not doing more through its immigration arrangements to alleviate the plight of Pacific islanders affected by climate change. Australia has long maintained a global non-discriminatory immigration policy. Australia is already strongly engaged in supporting development in the Pacific. In the event of environmental conditions in certain Pacific states reaching disaster proportions, Australia would play a major part in any international response. As I have mentioned, the Prime Minister recently committed to the development of an Australian-funded technical college for the Pacific, and work has begun across a range of Commonwealth agencies to explore how that commitment will be met. It is likely that many of the graduates of such an institution would have skills in demand in Australia and would meet standards required to have their skills recognised in Australia. So we are clearly doing a considerable amount already to help our Pacific island neighbours.

On a closer look, it seems that this bill is, as I mentioned earlier, simply another stunt promoted by the Greens. I understand that they are doing this at the behest of the Friends of the Earth. The Friends of the Earth is a very interesting organisation. It is connected with an Indonesian organisation called WALHI, which is the Indonesian chapter of the Friends of the Earth. There are some interesting connections between WALHI and the Australian Greens. I note a press release, dated 12 January 2004, in which Senator Bob Brown and a WALHI director tried to blame Alexander Downer for violence at the Newcrest mine in Indonesia. That is an interesting proposition. I also note that the so-called Mineral Policy Institute—an NGO specialising in campaigning to prevent ‘environmentally and socially destructive mining’ and other minerals and energy projects in Australasia and the Pacific—has listed Senator Bob Brown as its patron. The Mineral Policy Institute was also affiliated with Friends of the Earth International.

Interestingly, WALHI appears to have now been joined by radical Islamic groups in its campaign against the US mining giant, Newmont. A photograph—which I could perhaps table if the Senate were interested—recently featured in the Indonesian press shows Abu Bakar Bashir, the spiritual leader of Jemaah Islamiyah, flanked by Muhammad Al Khaththah, the leader of the Indonesian chapter of Hizb ut-Tahrir, attacking Newmont’s environmental record. I also note an article from the Straits Times of 22 April 2006 which states:

The head of Walhi, the main environmental group, is also a member of Hizbut Tahrir, a hard-line Muslim group which emerged over the past year, and which has been famously described as being a ‘conveyor belt for terrorists’. Although the group claims to be non-violent, the Walhi chairman took part in recent violent demonstrations outside the US embassy, wearing full Islamic robes.

I would be somewhat interested to know—and perhaps in her closing address Senator Nettle could refer to this, or perhaps we could refer to this a bit more closely in the committee stage of the bill—what the Greens’ response is to this apparent alliance between radical Islamists and the Friends of
the Earth on whose behalf, I understand, the Greens have moved this motion today.

Time is running away from me, unfortunately, but I did want to turn to the provisions of the bill to address some of the issues there. With this new form of visa being encouraged by the Greens, one wonders what safeguards might be put in place to ensure that other matters were taken into account as well in relation to suitable entrance into Australia. We proudly have very strict immigration procedures. Over many years, both Labor and Liberal governments have been very generous with their immigration policies, but have been determined to ensure that people coming into our country and society do really have a commitment to Australia and all that Australia stands for. I would be interested to see in this bill just where this new form of visa would fit with the people who might be eligible to come in, because disasters, if they do strike as anticipated by this bill, will strike in many places and it would be very important, I think, for those in charge to carefully look at, as we currently do—

(Time expired)

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Do you wish to table that document? If you do, you will need to seek leave, Senator Macdonald.

Senator IAN MACDONALD—If anyone doubts that it is here, I have it and they could come and see it. I do not think I need to table it.

Senator PATTERSON (Victoria) (4.47 pm)—I rise to speak on the Migration (Climate Refugees) Amendment Bill 2007 put forward by the Greens and want to start by noting that we currently have a migration program which is designed to serve economic, social and demographic objectives. As well, we have a substantial humanitarian program which resettles people who have been subjected to persecution or gross violence or violation of their human rights in their home country.

It has been traditional that we take significant advice from the United Nations High Commissioner for Refugees regarding our refugee and humanitarian program. They assist in outlining where they think the highest priority lies with the refugee population around the world, which is estimated to be somewhere between 20 and 25 million people. Obviously, Australia cannot take all of those people, so they have an orderly and reasonably fair process, and we are guided by the United Nations High Commissioner for Refugees. We obviously sometimes have disagreements with them from time to time, and sometimes those differences are quite significant, but they are an appropriate body to assist us in making those decisions.

In 2005-06, our humanitarian intake was 14,000 people, and this is one of the most generous intakes in the world on a per capita basis. If you put per capita measures aside, we are one of the top three nations in absolute terms in relation to our humanitarian intake. We are up there with the USA and Canada; nations which are much larger than us. And, as I said, we are one of the top three nations in the world in absolute terms in humanitarian intake. I just wanted to put all of this in perspective.

We also have a very proud record in assisting people, both here and abroad, when it comes to a crisis. Aceh is a perfect example. I happened to be in Italy on Boxing Day in December 2004 at the time the tsunami occurred in Indonesia. Even though I do not speak Italian, although I did have reasonable Italian when I was about nine years old, it was quite obvious that Australia featured in the headlines of the Italian newspapers because of our quick, significant and world record monetary contribution to Aceh. We have a proud record in assisting people in
crises. That did not happen to be global warming; that happened to be a seismic shift in the earth’s crust. I have to note that, in the bill, the Greens do not mention that. They do not even mention people being displaced as a result of a significant seismic shift which causes permanent changes in people being relocated. It is not even mentioned in this bill. We are only picking global warming because that is the sort of issue that they think they will get a run on.

Let me just say too that I happened to be Parliamentary Secretary to the Minister for Immigration and the Minister for Foreign Affairs when the Kosovars and the East Timorese were here. Four thousand-odd Kosovars at something like two weeks notice were coming to Australia and walking off those planes, some of them with nothing and some of them with nothing more than a plastic bag. And what happened? I am having difficulty, Mr Acting Deputy President, with the chatter that is going on; it is distracting.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! I can anticipate your difficulty, Senator Patterson, and I think the situation has naturally resolved itself.

Senator PATTERSON—I watched as those people came down, and I was there as they came into the Qantas hangar—these people who had been taken in by Australia and accommodated, at two weeks notice, through the amazing work of the immigration department, which was subjected to some appalling treatment in the press while Senator Vanstone was minister. The immigration department and the defence department worked together cooperatively. I was staggered and moved by the way in which they worked together, and I changed my attitude towards the defence forces. My concept of the defence forces had come from my father, who was a lieutenant in the Second World War and ran our house like it was an Army camp—he made a fantastic contribution, but that was my impression of soldiers. When I saw the defence personnel working with those Kosovars—playing football with the kids and sitting down to talk to and comfort some of the people who had lost family and homes—I saw a different side of the training of the Defence Force.

I have to interpose something here about the Northern Territory emergency response. I was alarmed when I saw some of the press reporting of the Defence Force. People were saying, ‘The Defence Force is going into the Northern Territory.’ That showed a complete lack of understanding and knowledge of the modern training of our defence forces. They are trained in warfare but they are also trained in peacekeeping. I think that maybe our defence forces should wear pale green hats or something similar when they are doing humanitarian community work in Australia, like the work with the Kosovars or the work in the Northern Territory. We accept them as peacemakers when they have blue hats on, but when they went into the Northern Territory there were references to the tanks rolling in and the troops being brought in. I thought that was offensive, totally unacceptable and totally misguided about the role the defence forces can play in building communities—and that they have been playing since Minister Herron, when he was Minister for Aboriginal and Torres Strait Islander Affairs, tried to address the issues. You would think, from what happened in the press, that we had done nothing. We have put in measure after measure. One of them was to have the defence forces go in some time ago.

I want to state here that we brought together the resources of our community, of the Public Service, the immigration department in particular, and of the defence forces to work with the Kosovars and then the East Timorese. There were nearly 6,000 people
on our doorstep within a couple of weeks. We accommodated them, met their health needs, returned many of them very quickly and kept some of them for over a year. So we have a strong and proud record when it comes to our refugee and humanitarian program.

I would add here that, as a result of the Howard government’s policies aimed at reducing the number of illegal immigrants who come to Australia, the victims of profiteering people smugglers, we have been able to accommodate over a thousand more refugees every year than was the case under Labor. There have been thousands more refugees who have been resettled in Australia in a more orderly fashion as a result of our measures. We have had a strong migration program focused on skills, a strong refugee program focused on those with refugee status—approved by the UNHCR, not by people smugglers—coming here to Australia, and, as I said, a strong response to crises like those of Aceh, Kosovo and East Timor. We can demonstrate that we do that. You would think, from the way these bills have been presented, that we do not have a record on it.

Of course, global climate change phenomena should be a focus of all governments. We have been involved in global dialogue and, in addition, we have been providing significant financial assistance to our Pacific neighbours to monitor changes and assist them to respond. I will outline some of those measures. Since the late 1980s and early 1990s, we have had a South Pacific Sea Level and Climate Monitoring Project—SPSLCMP, as it is known in a shorter form. The CGPS is linked to the tide gauges and

Senator Moore—As it’s easily and commonly known, Senator!

Senator PATTERSON—As it is commonly known—SPSLCMP, however it might be pronounced! It was developed in the late 1980s and early 1990s under the Labor government—you have to give credit—as an Australian government response to concerns raised by member countries in the South Pacific Forum over the potential impacts of human-induced global warming on climate and sea levels in the Pacific region. The primary goal of this project is to generate an accurate record of variance in long-term sea level for the South Pacific and to establish methods to make these data readily available and usable by Pacific island countries. The project is now in its fourth phase, which commenced in January 2006.

But let me go back over some of the earlier work, because I had a particular interest in this. It is amazing, in this job, how you scan across areas about which you knew nothing and have to learn a lot. When I was Parliamentary Secretary to the Minister for Foreign Affairs, I went to a trade conference in Samoa. While I was there I launched the first of 12 continuous global positioning systems for the Pacific island countries as part of this $24 million program funded through AusAID. The CGPS is an early-warning system linked to a tide gauge to help Pacific island countries monitor and respond to any changes to sea level and climate as the result of global warming and greenhouse effects. This makes the Pacific region the first group in the world to measure changes in sea level with an absolute degree of accuracy.

So here we are, out there in front, assisting our Pacific island neighbours to monitor more accurately changes in sea levels. They needed much better data collection and analysis to assist them to develop policies and to properly plan for any problems associated with climate change and sea level rises. I was not aware until then that the challenge of measuring sea level changes is made difficult when factors like movements of the earth’s crust, earthquakes, tides and volcanic activities all have to be taken into account. The CGPS is linked to the tide gauges and
will be used to determine the absolute sea level changes in individual Pacific island countries. In the past, water levels were measured to a level of precision plus or minus 10 millimetres using conventional tide gauges. This was suitable for monitoring changes to sea level due to storm surges, tsunamis and other natural hazards. But to look at the very small and gradual changes in water levels caused by global warming and greenhouse gases, conventional gauges were not sensitive enough. Using state-of-the-art technology, improved sensors, digital recording and additional meteorological inputs, ocean levels can now be monitored with an accuracy of better than plus or minus one millimetre. This is required, as the present estimate of global sea level rise is about 1.5 millimetres per year.

Other stations linked to the tide gauges will be installed in the Marshall Islands, Kiribati, Tuvalu, the Cook Islands, Tonga, Vanuatu, the Solomon Islands, Papua New Guinea and the Federated States of Micronesia—and I think there are, at this stage, still two of those to be installed. The data will be sent to AUSLIG in Canberra, where scientists will analyse the data and information. AUSLIG work closely with the National Tidal Facility Australia, NTFA, at Flinders University in Adelaide, who are responsible for the tide gauge stations measuring relative sea level changes and then calculating the absolute sea level trends in the region. The results are fed back to scientists and government planners in each Pacific island country and to regional organisations. These stations have a life of more than 20 years to support this work and the Pacific governments, ensuring a continuous flow of sea level and climate information to the governments and the international community over that period.

That is a major and significant contribution that has been undertaken, originally by the Labor government and continued by the coalition. That is a practical and sensible way of going about assisting Pacific island nations.

One of the other things we have done is to launch the Australian Pacific Technical College, which the Prime Minister announced in October 2006. The Australian government will provide $149.5 million for the establishment and operation of the new Australian Pacific Technical College. The college aims to provide Australian standard training to Pacific island students from throughout the region and will be a significant resource for island countries. It is to be headquartered in Suva and will include training centres and country offices in Fiji, Papua New Guinea, Samoa and Vanuatu. An important element of this college will be to ensure access by students from all island countries, including the smaller island states. This will be assisted by a generous scholarship scheme worth $10 million in the first four years.

This college aims to offer appropriate courses for people if they continue to live in those island states or need to move because of changing sea levels. It will offer courses in hospitality, tourism, health and community services, automotive trade, manufacturing and construction, and electrical trades. The first intake of students was to take place in July this year, and it is anticipated that in the first four years 3,000 students will graduate from that college. The courses will be delivered by Australian registered training organisations, contracted to the Australian government’s overseas aid agency, AusAID. The college will have close links to industry to ensure the relevance of training to employment. The college will assist economic growth in Pacific island countries by addressing skills shortages and increasing workforce competitiveness. It will also assist in the mobility of skilled workers between the Pacific Islands and developed countries.
Here we have just two measures which are practical and sensible: measuring sea level changes more accurately than is being done anywhere else in the world and training 3,000 people, in the first four years, from a range of countries in the Pacific in courses which will have relevance for their own country and if they need to move.

When Mr Howard was at the Pacific forum last year, there was some debate about the issue of changing sea levels and the issue of what should be done for people living in the island states most likely to be affected. Mr Howard told reporters that there were two sides to the labour mobility issue: shifting people was one argument, but some of the Pacific leaders were concerned that their skills base would be weakened if they lost too many workers to New Zealand and Australia. When we think something is a good idea, we have to consider what the impact will be on the country. By training those people, giving them skills and preparing for the fact that there may be changes, not only will they be able to help their country if sea changes are not as drastic as some people claim but also they will be assisted to be more highly mobile if there are changes. They may not come to Australia and New Zealand; they may choose to go somewhere else for their qualifications.

If they do not have qualifications, they will have very little choice other than to accept the sorts of suggestions being put forward by the Greens. I do not think that is the best alternative. We are a party of choice. If we can educate these people and if sea level change is not so great, they will be much more useful in their home states. If it is the case that they need to move, they will have greater mobility and greater choice, and they will be useful to any receiving country. I do not know whether we could take them all. If they have had training at Australian technical level, that will be an advantage to any receiving country.

Do you know what? Sometimes I would love to be in a minority party, because I read the explanatory memorandum. What does it say? It says: ‘There may be some financial implications. But don’t worry about that.’ They will not explain. They will not even try and estimate the financial implications. I will tell you what the financial implications are. My information might be a bit out of date, but, when I was the parliamentary secretary for immigration, every thousand refugees cost us $25 million over the first five years, and then they start to make an economic contribution. I imagine that would be higher now. We have one of the best resettlement programs in the world. If the Greens had done a modicum of homework, they might have been able to put a guesstimate in there. But instead they have this little, fleeting sentence, ‘There will be financial implications.’ Are we going to reduce our humanitarian intake? Are we going to put more money into the budget? The Greens can be as flippant as they like, but in the end we have to balance the budget. And to have, in their explanatory memorandum, some offhand comment about the cost shows that this bill has not been thought through.

Senator BARTLETT (Queensland) (5.07 pm)—I am pleased to speak, on behalf of the Australian Democrats, to the Migration (Climate Refugees) Amendment Bill 2007, a bill from Senator Nettle of the Greens. The bill seeks to recognise refugees from climate change induced environmental disasters. The Democrats have long called for Australia to recognise the reality of climate change and, particularly, to recognise the immediate and significant threat that it poses to many Pacific island nations. We have long called for Australia to develop formal mechanisms for enabling us to accommodate people from
Pacific island nations who are affected by climate change.

That, I think, is something that we should all agree on. It is very unfortunate that the government speakers have sought to dismiss or avoid that core issue. You might have concerns about the mechanism being put forward; indeed, I have some queries that I would raise about using this mechanism rather than alternative mechanisms, such as those the Democrats and I have put forward in other legislation. But the core principle remains: Australia has obligations, particularly to people from poorer nations, and particularly to people in our own region and Pacific island nations. We have obligations to ensure that, if and when they are affected severely by climate change induced events, or by climate change more broadly, we provide assistance to them—including, if necessary, enabling them to resettle or reside, even on a more temporary basis, within Australia, depending on their circumstances. That should be a simple given. If Australia as a nation could send that simple signal to the Pacific island nations—that we will provide assistance to and opportunities for them to resettle or reside here in the event of these sorts of problems occurring in their home countries as a result of climate change and climate change induced events—that would make a big difference.

We can work out different ways to do that, whether or not we have a formal visa specifically for that purpose, as is proposed in this legislation. I am not convinced from Senator Patterson’s contribution that she has actually read how this proposed visa would work and the way it would interrelate with existing programs. But this legislation seeks to introduce a specific class of visa known as a climate change refugee visa. Should we do it via that mechanism, as a specific, discrete visa? Or should we do it via a mechanism that I think would work better, which is to use the broader mechanism of a complementary protection visa, which takes into account wider humanitarian circumstances—into which climate change induced disasters would clearly fit? Or should we do it through a much more flexible arrangement with regard to entry rights for people from particular Pacific island nations across the board, without having to establish more defined and constrained humanitarian criteria?

I think there are arguments for all of those approaches. I lean towards the second and third models rather than the model that is put forward in this bill. But I think that just to slag off the whole concept not only is unfair but also sends a poor signal to our Pacific island neighbours—who already, in many cases, are less than impressed with the attitude of the Australian government to climate change as a whole and to what sort of assistance we may provide to people from these island nations as they are more severely affected by climate change.

Let us not kid ourselves: this will occur, whether it occurs via a one-off related environmental disaster or through cumulative reduction in liveable areas and arable land. Either way—and probably both ways—these islands not only are going to be affected but, according to some reports, are already being affected. I draw the Senate’s attention to a report by Kathy Marks which was published in a number of newspapers around the world. I think it was originally published in the Independent, in the UK, in July of this year. I have a version that was in the New Zealand Herald of 21 July which talks about Tuvalu.

One of the issues with the model that is put forward in the Greens legislation that I think needs to be recognised, regarding the eligibility requirement for a climate change refugee visa, is that the legislation gives to the minister the power to determine whether or not something is a climate change induced
environmental disaster. It also puts some requirements on the minister as to what the minister has to take into account with regard to the disaster, and it gives that power to the minister alone. In response to some of the criticisms Senator Patterson was making, I say that it actually enables the minister to set a limit on the number of climate change refugee visas that are issued pursuant to each declaration. So, if anything, it is actually too broad. A minister who had the mindset that Senator Patterson has just outlined would just put the limit at zero, and then we would not have any problem with all the other issues she has raised.

Obviously, in any circumstance, what is stated here is a criterion for a climate change refugee visa. The criterion is that the person must have been displaced as a result of a climate change induced environmental disaster. Whilst I hope no-one in this chamber any longer disputes that climate change is a reality, we all know that it is difficult to specifically state that any individual disaster can be clearly seen to be a result of climate change. Certainly it is difficult to demonstrate it in a legal sense, as opposed to it being a reasonable assumption for somebody to make based on the available scientific evidence.

The mechanism's intent is welcome, but it could potentially be quite easily circumvented by a government that was not interested in using this visa. That is why I think the Democrats’ model, outlined in legislation I proposed last year regarding a complementary protection visa, is better. Complementary protection visas involve a wider group of people than the narrow definition of 'refugee' under the refugee convention. They are defined in the Democrats’ legislation as people who would face a substantial threat to their personal security, human dignity or human rights if they were to return to their country of origin. It is normally in circumstances where they are under some other, wider threat that does not fit within the narrow constraints of the refugee convention. It can also be for severe humanitarian reasons, which can include natural disasters. It enables that flexibility to be there. It does not require it to be clearly linked to climate change per se; it can just be related to a deterioration in circumstances in a particular country which make it no longer liveable for a certain group of people. It could be in response to a specific disaster which it would be reasonable to assume is linked to climate change, but it does not need to have that link demonstrated in any legal sense. I think that is a better way to go.

I also take issue with a couple of other things that Senator Patterson said. It is frustrating, disappointing and very tiresome to continue to hear the regurgitating of dishonest propaganda by the government. They continually use phrases like ‘illegal immigrants’. Again, when we are talking about people who are, and have been demonstrated to be, genuine refugees fleeing very serious and real persecution, their mode of arrival is irrelevant. It is certainly not illegal, and it is simply false to call them ‘illegal immigrants’. For someone who is a former parliamentary secretary in this area to be using such terminology is a sign of how deeply ingrained the government’s propaganda mantras have become in the consciousness of those who are forced to have to defend the indefensible approach of the persecution by our government of people who are fleeing persecution by other governments.

The notion that you can just say that refugees cost so many dollars per person is typical of the narrow, bean-counting Treasury mindset that has been used to try and create a negative attitude towards refugees. Of course, there are some costs involved in resettlement programs, but in any of the costings I have seen there is never any recognition of the contribution that people make,
even in those initial periods when they are settling. There is some recognition that, after a few years, when people do get settled and established, they start making more immediate, clear-cut and definable economic contributions. But there is much more to the contribution that people, including refugees, make than just the tax take we get from their paying income tax, and those very narrow, dollars-and-cents measures.

Refugees have provided immense benefit to Australia in all sorts of ways, far beyond just counting how much it costs to have them in our health system versus how much tax money we get from their income and other mechanisms. It is typical of that clearly misrepresentative approach and the absurdly narrow and therefore misleading costing criteria that are used as a way to skew our migration and humanitarian intake towards business and skilled migrants, and people with stacks of money, and away from people in the family and humanitarian areas. Of course, you get more money immediately from people who are coming here to fill job vacancies in the skilled area, but the other, wider benefits should not be discounted.

Let me also emphasise, given that we are having debates in this place at the moment about the importance of citizenship and of people engaging in and becoming full members of the Australian community, that the evidence is clear-cut: the one group of people who become citizens most quickly, who are most keen to engage fully with Australia and all of its responsibilities, are refugees. Many of the people who come here under other visas and who are here as permanent residents for decades do not become citizens. That is fine; that is their right. But it is an indication of the different types of contributions people make and how you cannot just pull this all back to narrow, dollars-and-cents measures.

Returning to the article by Kathy Marks that I spoke about, from the *Independent* and the *New Zealand Herald*, it goes into quite a lot of detail about the very severe environmental impact that is already occurring in Tuvalu. Most Tuvaluans live just one to two metres above sea level. Whilst the article says that there is not enough data to establish a definitive trend, the data that is around does suggest possibly a half-a-metre rise in the next century. That does not mean they can just move another half a metre up the hill. There are no hills. Most of Tuvalu is not much higher than a few metres above sea level. It is not just about people standing on an island and the water slowly rising up until it hits their ankles and then their knees. It is about the vulnerability of islands so that they are unable to withstand severe weather events.

The article describes an islet that has already been lost in Tuvalu. It talks about the lagoon around Funafuti, a town in Tuvalu that used to have seven islets around its lagoon; now there are six. One of them has already been wiped out via a series of cyclones towards the end of the last century. It was sufficiently strong that it stripped off the vegetation. That meant the sand and soil were no longer held in place and got washed away. All that is left is a bit of rubble that is visible at low tide. Is that specifically caused by climate change? Who can specifically demonstrate that? But when you have that in combination with clear evidence of rising sea levels, clear evidence of more severe weather events and an obvious vulnerability, it is pretty clear that you do not have to quibble about whether it is 80 per cent climate change induced or 30 per cent. Whatever it is, some of these islands are already in serious trouble.

It also means that land that might have been arable at one stage becomes less so, or not usable at all for growing any sorts of
crops or food. It can mean water tables become saline. It is not just about the land slowly becoming inundated. The evidence is clear, as that article shows, that this is already a serious problem.

There is an issue with using the title of ‘climate change refugee visa’. I do not mean this particularly as a criticism of the legislation, but it is one of the problems we face in this area and it is one thing the government has used to dismiss calls by many people, including the Democrats, for Australia to recognise its responsibility to take in climate change refugees. In the day-to-day parlance of the word ‘refugees’ it is completely appropriate. We all know what we mean when we talk about climate change refugees: we mean that people who have been affected by climate change can no longer live where they are, or not enough of them can, or the available land can no longer manage that level of population, and they need to flee. We all recognise that, but putting it in law under the label of ‘refugees’ means linking the concept to that of the refugee convention, and the simple fact is that it does not fit within the definition of the refugee convention.

The definition in the refugee convention—which is actually quite narrow, despite what you would believe if you heard some of the propaganda and rhetoric around the place—is that a person must have a well-founded fear of being persecuted for reasons of race, religion, nationality, membership of a particular social group or political opinion and is unable to return, or so fearful that they are unwilling to return, to that country. You could probably stretch it to say that you are a member of a particular social group that is affected by climate change induced disaster, but I think that is stretching it further than is helpful. We all use the terminology, as we did when the tsunami occurred in Indonesia, of people being refugees from that disaster. We use it in the general day-to-day sense, but they would not, in my view, fit under the definition in the refugee convention. I do not think you could say they are members of a particular social group; they are residents of a particular location. I think also you would really be stretching it to say that they are not able to return because of a fear of persecution. They are not able to return because of humanitarian circumstances—their lands wiped out, their homes gone, no food or whatever it might be. The complementary protection mechanism is a better one because it has a much broader humanitarian component to it.

In my view Australia should take a much more liberal approach—’liberal’ in the true sense of the word, not in the totally bastardised sense of the word that we have had to swallow in this country by virtue of having the most illiberal party ever in government having the name Liberal attached to it; in the proper sense of the word ‘liberal’—to the ability of people from at least some Pacific island nations to be able to enter Australia. This is the reality in New Zealand, where a number of Pacific island nations have much freer entry rights, as we in Australia have in our partnership with New Zealand. There is a very valid case for considering trialling and potentially adopting such measures with Pacific island nations. We do not have anywhere near as strong links as we should. We do not have anywhere near strong enough a recognition of the realities of Pacific island nations.

Many of these nations are places that are not large in numbers of people. It would assist us to strengthen the ties and connections that we should have with the Pacific region and that tend to get totally and appallingly ignored in public debate and awareness and in political debate. It is my personal view—it is probably not a party position—that we should be looking very proactively at loosening the constraints on people from at least
some Pacific island nations to be able to more easily enter and reside in Australia under various circumstances.

I have spoken in this place before about the Senate inquiry report that examined whether or not to allow Pacific island labourers into Australia under specific, confined circumstances and about the benefits that that could provide to economies in Pacific islands. I think we could explore more of those sorts of things. Whilst there is a genuine risk of climate change induced disasters—and we need to recognise our obligations there—there are wider difficulties in the Pacific islands, and they have got bigger problems than just climate change. Let us not kid ourselves: climate change is one of the threats to the economies of these nations. One of the ways we can assist them significantly in economic terms is to enable them to more fully connect with the Australian economy as people and as individuals. It would be valuable for them economically, and I believe it would be valuable for us socially, culturally, politically and economically. That is a wider call beyond the climate change issue, but if there were much freer scope for people to reside here it would also then reduce the need to try to find mechanisms like this. Obviously, if their home became unliveable for whatever reason they would have that opportunity in Australia and New Zealand. I think that would help bind the whole region together—(Time expired)

Senator MOORE (Queensland) (5.28 pm)—In commencing, I want to acknowledge the work done by Senator Nettle and, in particular, by Senator Milne in bringing the Migration (Climate Refugees) Amendment Bill 2007 before us. It gives us the opportunity to again debate in this place the genuine issues around climate change and also the real responsibilities that we have in Australia to accept our part in what must be a global response to a global problem.

Certainly we are looking now—immediately and not some time in some nebulous future—at a crisis occurring in many parts of the South Pacific. The evidence is there. One of the clear differences between the debate we were able to have this afternoon and ones which we have been able to have in the past is that there is no confusion or argument about the reality of the problem. That shows that we have moved forward together and that the amazing amounts of evidence that are before us and have been building up over a long period of time indicate that there is no room for doubt that the impact of climate change on our environment has had a devastating impact on communities across the world. Whilst in the South Pacific and in the Oceania region it is something with which people live on a daily basis, we in Australia can sometimes distance ourselves from the problem because we can pretend that it is elsewhere.

Certainly many people who live in Australia, if they took the time to consider the evidence, to listen to the reports and to engage in the necessary community discussions, would understand that many of the climate change issues that are impacting on us are also affecting others. We have before us and we understand the impact of the major horror of the drought on many parts of Australia, the land changes and also the effect of temperature changes. We would be able to make the links to show that environmental changes are impacting on each of us daily. However, the luxury of being able to remove ourselves from the equation is not one which is shared by people who are living on islands in Oceania and the South Pacific.

Several weeks ago I was able to meet with a delegation of people from Tuvalu. I had to admit a certain ignorance, with my appalling geography, of knowing exactly where Tuvalu was. I was able to get a copy of the globe and, with their help, find the very small is-
lands that are Tuvalu. There were also some women with them from Kiribati, another part of the world of which I had heard but have not been able to visit. I was largely ignorant of the issues that were facing them as a community. They could not take an objective view of the impact of climate change. Their personal experiences and the photographs that they brought with them to the meeting showed that their land is disappearing. That makes a confronting argument. It is no longer theoretical; it is no longer academic. It is not something you could include in a footnote. Where you were able to have animals, where you were able to walk, where you were able to gather as recently as three or four years ago is now under water. The positive aspect is that the people are receiving international support. Years ago it was only a few dedicated enthusiasts in the area that took the time to acknowledge the problems, study them, examine them and bring them back into the wider debate. Now, through very strong international environmental links, the knowledge that is gained by working with the people in those areas can be brought immediately back into the debate, which we must all have.

There is no argument that the land is disappearing. There is no argument that the long-term prognosis is that some of these whole communities are going to cease to exist. It is not something that people are happy about, certainly. It is not something from which we can distance our communities in Australia. It is our clear responsibility as global citizens to find out about what is happening, to identify what the causes are and, most importantly, to share that knowledge and to support the people who are living with this reality. In that context we must continue with the amazing work of so many of our academics across a range of institutions in this country. There is academic knowledge, scientific knowledge and the work of centres of excellence that have been established at several universities in our country. They have been working, studying and being part of global knowledge-sharing on the issues of climate change and environmental progress. We have responsibilities individually and as a community to change the way we live and to acknowledge that every change must have a reaction. We are able to work with the world to make a difference and to help people who may not have a future if we do not make these decisions.

The bill that Senator Nettle has brought before us puts forward one solution. Whilst that is not a solution with which the ALP is currently totally in support, it should be debated. We should see the focus of that bill as part of whatever response we as an Australian community must make. The very sense that there are people who will be made homeless, who will have their futures curtailed, who will not be able to stay living on their land—the very fact that those people will exist—must be acknowledged openly. Australia must take some role in looking at an international solution, whether that means we should take a certain number of people or whether that means there should be a new visa status created. I share the views Senator Bartlett put forward at the end of his contribution. I am uncomfortable with just creating a new visa category in our immigration process. I do not accept that that is the best step forward. We do accept and acknowledge that there will be people on our globe that will be climate change refugees. It is something about which we must make long-term plans. We must see how we, as a country, can work with other services, not just our immigration program.

Of course our immigration program will have a role to play in whatever the Australian government is prepared to move forward with. We have heard a number of speakers this afternoon wax lyrical about the way the
Australian immigration program operates. While there are problems and there have been problems—many of them have been identified in this place and in wider reviews of the way our immigration program operates—I think there is real strength in many of the processes that are in place through the department of immigration. There is real commitment and professionalism by so many of their staff. I think that using that skill and knowledge is one of the steps that we could take in looking at what we could do as part of a global response. So using, reviewing and understanding the way the current immigration system operates is a threshold issue. That must be done.

How we then look at the various claims from people who are seeking immigration support must be considered amidst all the other things that are in front of any government looking at long-term policy. The immigration process is one response. But, building on that, we must also use the knowledge and the skills of so many other parts of our Australian government services. Certainly the Australian Labor Party has long supported the concept of effectively working with our aid budget, through the Department of Foreign Affairs and Trade, to look specifically at how we can work with communities so that they can play a role in developing their own futures. Working with the effective people who are currently in the AusAID program, we would be able to work with people in their own countries to establish specific areas of research and support and to make short-term and long-term plans for their futures.

Indeed, that must be the process that we would all be following. It is not imposing a solution from outside, because, when that happens, that dismisses the history, the knowledge and the experiences of the people who are most in need of support. That process could be extended to all areas where there is a need for support. Having outside assistance identified and then imposed on any community may offer some short-term relief, but, as a long-term solution, it is not the best way to go. Certainly there must be an ongoing effort in this country to look at our overseas activities. The last AusAID program particularly looked at our closest neighbours. So many of the people who are confronted by the immediate impact of climate change on their land are our neighbours, so not only do we have a neighbourly responsibility because they are people who live closest to us but we also have an established responsibility in international support in the aid program.

There has been some particularly interesting work done linking some of the Millennium Development Goals, which we have talked about many times in this place, to the impact of climate change and looking at how the MDGs can be implemented in various countries. Using the established programs that we have and using the skills and the commitment of people who are already working in the field, we need to make sure that an awareness of climate change impacts and environmental impacts of any decision is linked into the planning processes and also the evaluation processes of planning that is done. Just by taking that one step, we keep the message before all of us and before the people across the globe.

We must accept that Australians cannot self-assess themselves out of this issue. It is not enough that we understand the impact of climate change on our own environment—and that is becoming much more widely accepted and people are thinking about that. As recently as yesterday, we heard a submission from Australian Seniors talking about the issues that their extensive survey shows Australian citizens over 50 are interested in as we head towards the next election. What were the things which they were concerned
about? For the first time environmental issues—the issues of climate change and of our land, our climate, our wonderful resources, water, air quality and all of those things—and their impact on citizens were identified. Our seniors identified that they were concerned about what kind of world they were going to be leaving to their children and grandchildren. It was a key issue in the Australian Seniors survey.

It would be useful if that awareness and knowledge about our own environment were extended to understanding the impact that these things are having on people who are our neighbours. That is one of the things we can achieve through having a debate around the bill that the Australian Greens have brought to us: identifying the issues that have caused people to lose their land, to lose their citizenship. If we identify what has caused those issues then we can act globally to address those causes and not only to look at what we can do to make changes in their environment but also to welcome, where possible, the relocation where it is best able to be done.

The process for the future must include the acknowledgement that the UN processes provide a wonderful mechanism for that international discussion, consultation and sharing of knowledge. There have been numerous UN conferences, and there have been some in which Australia has taken a role, but I think we need to continually reinforce that the United Nations—the environmental committees, the future acknowledgement of the global environment in which we operate—provide an effective mechanism for all of us to operate in and to share our knowledge. So the ongoing role of Australia in any of those community development programs must continue. We must take our responsibilities in there and effectively fund that, because it is no longer good enough just to have strong commitments and rhetoric around what we think ought to happen. Through the processes that are already in place, we need to make sure that we adapt appropriate mechanisms of funding and also make sure that our people are actively involved in all levels. We need to make sure that any of the programs that are put in place are effectively evaluated and that evaluation involves the communities in which we are working. That is developing and becoming better through the AusAID process, but it is certainly one of the key links that we must take into whatever happens next in this debate.

There is goodwill around acknowledging that the environment is important to all of us, and that is something that has not always been in place. When I was listening to the stories of the women from Tuvalu and Kiribati, goodwill was certainly not enough, but it was the opening gambit to any ongoing conversation. I cannot but help make a comment about the organisation Friends of the Earth, which I have worked with for many years and which was the sponsor of the community consultations that I was invited to a couple of weeks ago. We have heard that the Friends of the Earth have a longstanding credibility in this area. While people do not always agree with everything that any organisation puts forward or is involved in, we certainly need to acknowledge the wonderful commitment and the international credibility over the years of people who have worked for and who have been members of the Friends of the Earth. If we can at least hold on to the title—if there is an organisation called Friends of the Earth, all of us should be keen to be part of that because, as citizens of this planet, we automatically need to be friends of the earth.

The ALP do not support the bill as it is in front of us. To keep the debate moving forward, it is absolutely essential that we continue to be involved in discussion about the
impact of climate change and the reality that for some people the impact is not discomfort; it is disaster. We need to make sure that we, as global citizens, are part of developing solutions to the program and not dismissing it. We need to include all people who wish to be involved and ensure that we bring science, as well as a very strong element of compassion, into any ongoing debate—and I am sure the debate must be and will be ongoing.

Senator EGGLESTON (Western Australia) (5.44 pm)—We are here today debating this private senator’s bill from the Greens, the Migration (Climate Refugees) Amendment Bill 2007, which aims to provide a climate change visa for victims of natural disasters consequent upon climate change. The bill inserts into subsection 5(1) of the Migration Act a list of a variety of natural and other disasters, which it says might result from climate change. These include sea level rise, coastal erosion, desertification, collapsing ecosystems, freshwater contamination and more frequent occurrence of extreme weather events, such as cyclones, tornadoes, flooding and drought, which mean that inhabitants are unable to lead safe or sustainable lives in the immediate environment.

Indeed, all of those things are very serious and dramatic environmental events that would occur anyway, whether or not there was climate change, and which could amount to a disaster in any community. We could add to them the great floods which occur from time to time in our region in countries such as Bangladesh and the tsunamis which have occurred in Indonesia and Aceh within the last four or five years and which occur periodically around both the Indian Ocean Basin and the Pacific Rim. Even the droughts that we have in Australia rather than in other countries are environmental disasters which affect people’s lives.

I suppose the idea of having a special visa for climate change induced disasters begs the question: does this really add anything to Australia’s way of dealing with these kinds of disasters around the world? It is not a question that is easy to answer because these kinds of environmental events occur in any case and Australia, if I might say so, does have a very good record of providing assistance to countries which suffer environmental disasters of various kinds. We are, in fact, a very good global citizen in the way that we do respond to disasters around the world.

We certainly have an excellent record of having jumped in and assisted with local responses very quickly after the problems in Aceh following the tsunami which occurred there. We have not only assisted in the immediate aftermath of disasters, such as floods, earthquakes, fires, drought and so on; we have also assisted with medical services both locally and in evacuating victims to Australian hospitals. More importantly in places such as Aceh, to use that as an example, we have put in long-term plans to restore the communities to the kinds of conditions or better than they were before these disasters occurred.

Australia has a great record of working in cooperation with international and domestic partners to improve disaster preparedness and engage in risk reduction strategies. In fact, around the world, Australia provides something like 150,000 tonnes of food aid every year valued at about $65 million to people in countries subject to frequent environmental crises. These include: Bangladesh, which is very often subject to massive flooding; Indonesia, where the tsunami occurred in Aceh but which suffers also from episodes of very heavy rain during the monsoon season and frequently needs assistance; Sri Lanka, where we have provided assistance; and Africa, in Sudan and Chad, where Aus-
Australian aid has been very helpful in assisting people who have come through the impacts of droughts which have compromised food supplies.

Australia does provide as I said 150,000 tonnes of food aid every year—half of the tonnage comes directly from Australian farmers and suppliers and the rest is sourced around the world. Australia contributes financially to the Office of the United Nations High Commissioner for Refugees and we also support other humanitarian agencies around the world, such as Oxfam and Save the Children. In fact, in global terms, Australia has a very enviable record as a good citizen in supporting people suffering the consequences of environmental disasters.

We support protecting and improving conditions for refugees, finding durable solutions to refugee crises and assisting with the reintegration of refugees in their homelands, particularly in the Asia-Pacific region. The Australian government provides long-term support to areas that have been struck by disaster or conflict through the support of rehabilitation and reconstruction activities. As I said earlier, this was the case in Aceh, where we are now moving into the phase of the reconstruction and re-establishment of housing, schools and other facilities such as hospitals. Beyond that we do assist in other programs such as mine clearance, mine awareness and victim assistance programs. Of course those are not the subject of this private member’s bill; but they are, nevertheless, indicative of the kind of compassion which Australia exhibits towards people who are the victims of disasters around the world.

The principal department in the Australian government providing relief and assistance in emergencies, such as those which might occur during extreme weather conditions, is AusAID. AusAID is an excellent department that is active from the moment it becomes aware of a disaster. The first priority of AusAID is to assess the situation and gather information to ensure that help is provided to those in need. Once a country has officially requested assistance, AusAID and the Australian government respond quickly. A good example of that was on 2 April this year when there was a major earthquake measuring 8.1 on the Richter scale in the north-west of the Solomon Islands. The earthquake prompted a tsunami believed to be between two and 10 metres high which struck the western Solomon Islands and caused quite a lot of damage. It is thought that at least 52 people died and up to 7,000 were made homeless. AusAID moved quickly and provided $3 million for emergency relief and reconstruction assistance to the Solomon Islands. We sent in six medical teams to attend to disaster victims in the affected areas of the Solomons, including the most remote villages and islands. So Australia responded very quickly to that environmental disaster. I suppose from that one can conclude quite reasonably that Australia does play a very important role in attending to the consequences of environmental disasters in our region.

I will now come back to the subject of this debate, which is whether or not a special visa for refugees who are victims of environmental disasters consequent upon climate change would really add anything to our armature of help for the victims of environmental disasters. I have to conclude that the answer is probably no. Australia is already providing aid and support to victims of a wide variety of environmental disasters on a broad scale, and I do not think a special visa of this kind would add anything meaningful at all to the kind of assistance that Australia gives.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—I call Senator Humphries. Senator Humphries, you are
Senator HUMPHRIES (Australian Capital Territory) (5.56 pm)—I am aware of that but I hope to make up for my lack of time with the quality of my contribution in this debate. In the brief time that I have, I want to put on the record very clearly that Australia cannot afford to ignore the implications of climate change. We have heard predictions that global warming will contribute to a rise in average world temperatures over the next century or so of somewhere between one and six degrees and that this will inevitably result in the loss of ice from the extremities of the planet which will contribute to rising sea levels. The estimate as to how much sea levels will rise is, of course, a matter of some debate. But we need to be aware that, at the more extreme end, those estimates range up to a sea level rise of at least five metres for each degree of temperature increase. If that occurs, we will have a major environmental and humanitarian disaster on our hands. If that comes about, clearly Australia will need to engage in that. I might add that a sea level rise of that order would of course impose a massive change on Australia itself and we would be looking at dealing with a great deal of dislocation and social anxiety within Australia itself. Nonetheless, we have always shouldered our responsibilities to our region; and this would be no exception, I am certain.

Having said that, I note that the Migration (Climate Refugees) Amendment Bill 2007 bought before the Senate by the Greens does smack a little of being a stunt. There is no clear indication given in this debate as to why a particular category of refugee needs to be created. Given the background of Australia as an extremely generous contributor in opening its doors to those migrants affected by humanitarian and other disasters around the world, I see no reason to adopt this particular piece of legislation. We have a proud and consistent record of being prepared to assist citizens of other nations who cannot, for whatever reason, live in those nations any longer. Since at least the Second World War our doors have been open wide to those people. Whatever the reason a person finds it necessary to leave their homeland, Australia has been prepared to offer refuge; and we will continue, I am sure, to do so. Since the Second World War 6.6 million people have found refuge in this country. I have no reason to doubt that that policy would continue. Why we need to make the change evident in this legislation has not been explained. What is inadequate about the present migration legislation has not been explained. I think we need to be very cautious about elevating this issue for the sake of a stunt by the Australian Greens, where the playthings for this stunt are the inhabitants of the Pacific Islands. We already have a very close relationship with those inhabitants, and we will continue to support them in a variety of ways. Others in this debate have pointed to the support already being provided by the Australian government to assist those countries to deal with climate change. I have no doubt that that will continue and I have no doubt that Australia’s generous approach to these matters will continue.

Debate interrupted.

DOCUMENTS

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Order! It being 6 pm, the Senate will proceed to the consideration of government documents.

Australian Meat and Livestock Industry

Debate resumed from 14 June, on motion by Senator Ian Macdonald:

That the Senate take note of the document.

Senator BARTLETT (Queensland) (6.00 pm)—I would like to speak to document No. 1, which is the report for the last six months
of last year on livestock mortalities for exports by sea. It is a requirement under the Australian Meat and Livestock Industry Act for the federal government to table details of all export of livestock and the mortalities involved in each of those voyages for each six-month period. This particular report deals with the six months from July to December last year and details a whole range of different voyages, their points of departure, their destination points, the length or duration of the voyages and the number of livestock on each vessel—the vast bulk of which are sheep. Over two million live sheep were exported from Australia during that six-month period, as were 363,084 cattle plus relatively small numbers of goats, buffaloes and camels. On this occasion there were no deer.

The reason why this process is followed is because of what is known as the Kenery review, which occurred after one of what has been a continuing string of disasters involving the live export trade over many years. Every time there is a disaster, whether it is a fire at sea, ships not being able to offload their livestock or details of appalling cruelty, the government says this is a one-off aberration. They then hold an inquiry, bring in some recommendations, make a few changes at the edges and then assure everybody that everything about the trade is now humane—that is, until the next expose shows that the facts are completely different. The simple fact is that there is an alternative to the live export trade. The chilled and processed meat trade is already significantly greater than the live animal export trade. If we put the same energy into expanding that trade as the government, and those who benefit from it, put into maintaining and expanding the livestock trade, then not only would we have a significant reduction in animal cruelty but we would also have significant value adding for jobs in Australia—although I do accept that there is the minor issue of being able to fill those jobs due to the skills and labour shortage in many parts of Australia.

I want to specifically point out one voyage detailed here, and that is a voyage through Livestock Shipping Services that left Portland and Fremantle in November of last year. It was a voyage of over 30 days and included more than 72,000 sheep and 7,805 cattle. One of the mechanisms of the report is that if there is a percentage of deaths over what is known as the reportable percentage—which I think is two per cent—then an inquiry is required. I draw senators’ attention to just how much transparency there is or is not in this area. This is one of the things they point to. They had the Kenery review and they say, ‘We have this detailed report which is tabled in the Senate every six months. You can’t get any more transparent than that.’

What happens is that once a report or inquiry is triggered because there are too many deaths—as occurred in this case with over three per cent of the cattle dying on this voyage—there is an inquiry through AQIS. But all the summary of the report that was made public was that pneumonia and heat stress were the main factors causing the deaths. It has taken six months through freedom of information inquiries for the organisation Animals Australia to get the full report from AQIS about the real reasons. Firstly, it is outrageous that they do not have access to that report straightaway. If we are about transparency then why the hell isn’t that made public? Secondly, it became apparent that the deaths were due to a range of other issues, including prolonged recumbency and leg infections due to abrasive flooring. Indexes 2 to 7 said: ‘The relative difficulty of the cattle in getting up off the floor with abrasions, and wet flooring caused skin damage which became infected because of the wetter than normal conditions. Once infected, the cattle spent an increased time recumbent and the cause of death is septicae-
mia.’ Why aren’t those things made public straightaway? Why is it up to an animal rights organisation to have to work for six months to get the facts out in the open, if we are about transparency? I draw people’s attention to the piece on the back page of the Sydney Morning Herald today by their freedom of information editor, Matthew Moore, which goes into the situation in more detail. It simply shows for all of the smoke screens——

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Regrettably I must interrupt you, Senator Bartlett, because the time allocated for the consideration of government documents has expired. Senator Macdonald, I can assure you that those orders relating to government documents that have not been considered here tonight—that is, every one but one—will remain on the Notice Paper and will be considered on the next day of sitting. The question is that the Senate take note of document No. 1.

Senator IAN MACDONALD (Queensland) (6.05 pm)—I seek leave to continue my remarks later.

Leave granted; debated adjourned.

Senator Barnett—Mr Acting Deputy President, I seek clarification about the red. Point 17 says that general business consideration of government documents is to commence not later than 6 pm, which is what we have just done. We have commenced and Senator Bartlett has spoken to report No. 1. It is my understanding that the consideration of committee reports is to commence not later than 7 pm, which means that we have enough time to consider those reports. I was wondering if I could obtain some clarification on that.

The ACTING DEPUTY PRESIDENT—The clarification I can give you may be inadequate. If it is, you are quite welcome to seek further clarification. Because we finished the afternoon’s business 2½ hours earlier than was scheduled on the Notice Paper, the time that has expired from that point until now has been the same as usual. At this point, at seven minutes past six, we have still considered those areas in the usual amount of time.

COMMITTEES
Treaties Committee
Report

Debate resumed from 20 June, on motion by Senator Trood:
That the Senate take note of the report.

Senator IAN MACDONALD (Queensland) (6.08 pm)—I want to very briefly talk to the report from the Joint Standing Committee on Treaties, which is a committee I have the honour to be a member of. It is a very hardworking committee chaired by Dr Andrew Southcott, from the other place. The treaty committee looks through a great number of treaties. It is a surprise to me, having just joined the committee, how many treaties the Australian government deals with each month. There are an enormous number. I think that most people would be surprised at the number of treaties that are dealt with.

It disturbs me that the committee which is meant to scrutinise these particular treaties does so only after they have all entered into operation. It seems to me that parliamentary oversight of these treaties would be better done at an earlier stage in the process. I remember I was speaking on a treaty here in this chamber and then a couple of months later when I went to my first treaties committee meeting I found that the committee was then just looking at that treaty which had already been adopted and been through parliament. The process seems wrong to me. This is something that I think the government should have a look at. It is not an urgent matter, but I think in the next few
months, perhaps following the election, the government should really have a look at the purpose of having parliamentary scrutiny of treaties. There seems to be little point in having scrutiny of treaties if the treaties are already signed and in operation by the time the scrutiny takes place. Why do we bother? I think that is something the government should have a look at in the fullness of time.

Question agreed to.

**Regulations and Ordinances Committee Report**

Consideration resumed from 21 June, on motion by Senator Watson:

That the Senate take note of the report.

Senator BARTLETT (Queensland) (6.09 pm)—This report is from the Senate Standing Committee on Regulations and Ordinances. I have spoken on this already but I thought it appropriate, because of the topic, to speak to it just fleetingly again before the question is put. It is actually fairly rare for the committee to bring in an interim report; it usually does an annual report. The Senate Standing Committee on Regulations and Ordinances is over 75 years old. It is the oldest substantive committee, as opposed to administrative committee, that the Senate has. As its name suggests, it looks at all the regulations and ordinances. There are many of these—thousands of them every year. I suppose one should be fair and say that the committee members do not look at every single one of the thousands of regulations and ordinances. We pay a very intelligent legal professor to read all the thousands of legislative instruments and regulations and ordinances and he draws problematic ones to our attention, which makes for a far more efficient process.

One of the issues that have regularly been brought to the committee’s attention since the Legislative Instruments Act 2003 came into being has been widespread failure of many departments to engage in consultation in developing legislative instruments. Without going through all the details in the report, which I urge those of you who are interested in good governance to read, there is now a requirement under the Legislative Instruments Act, which came into being in 2003 after a very long gestation, to engage in consultation or to indicate in the explanatory statements to regulations why consultation was not necessary in a particular case or to detail what consultation did occur. It is a sad fact that in far too many cases that is not being detailed at all when the regulations are put together and the explanatory statement is attached. It is either stated that no consultation occurred with no reason as to why or there is no detail as to what consultation happened—in many cases, because it did not happen.

That is not good enough. These might seem like tedious, boring, administrative regulations and ordinances that are of no great consequence, but they are all items that have the force of law. They all affect people in different ways. People who are going to be affected by changes to the law, even if they are arcane regulations and ordinances, should be consulted whenever possible. That was the spirit, principle and intent of the Senate when it passed the Legislative Instruments Act and it is not being fulfilled on far too many occasions, including on occasion by officers within the Attorney-General’s Department, which is the department that has overarching responsibility for the implementation and enforcement of the Legislative Instruments Act.

It is a pity, in a way, that some sort of sanction if consultation did not occur was not included in the act. Indeed, argument about that was one of the reasons why the Legislative Instruments Act took so long to come into being. But, given the Senate did decide not to put in place a sanction, there is no rea-
son for any department, government officer, draftsperson or minister to decide that we do not need to bother with this. It is a requirement under the act that is not being fulfilled on far too many occasions. I take the opportunity once again, via this report, to strongly urge all ministers in particular to ensure their departments lift their game in this area because it is not good enough. This is an important area. The areas that do not get all the headlines can still have just as big an impact on people as the ones that do get the headlines, and we need to do far better.

Question agreed to.

Environment, Communications, Information Technology and the Arts Committee Report

Consideration resumed from 20 June, on motion by Senator Eggleston:

Senator BARTLETT (Queensland) (6.16 pm)—I wanted to re-emphasise the significance of this report, Indigenous art—securing the future. It is predominantly a unanimous report of the Environment, Communications, Information Technology and the Arts Committee, of which I am deputy chair. As I often do with Senate committee reports, I urge the relevant government minister to respond to it promptly. It is a continuing problem that Senate committees do a lot of work based on a lot of work by other people out in the wider community, pulling together substantial, very important and valuable reports with significant recommendations, and then we hear nothing from the government by way of formal response, sometimes for years. That is not good enough. It is not only insulting to the Senate and the committee; it is even more insulting to the many people in the wider community who put in the effort to make submissions or give evidence at public hearings. So I take the opportunity to urge the relevant minister, who in this case I think is Senator Brandis, to respond to this promptly. The report was only tabled in June, so he is not in trouble yet for being too slow to respond, but it is an area that does need action.

I will reflect on a few of the key recommendations, including that the Commonwealth establish a new infrastructure fund to assist Indigenous visual arts and craft, to complement existing national arts and crafts industry support funding, of around $25 million over a period of five years. It is not a significant amount of money in the scheme of things, but it would be very valuable. The committee also recommended expanding funding under the existing NACIS scheme and revising guidelines to confine its use to non-infrastructure projects. Some of the other key recommendations include ensuring that the Australian Competition and Consumer Commission can increase its scrutiny of the Indigenous art industry, including conducting educational campaigns for consumers as well as information activities with the goal of increasing successful prosecutions of illegal practices in the industry.

There is a lot of debate at the moment, of course, about situations in Indigenous communities, and part of any solution has to include viable economic opportunities for people living in those regions. One of the real values of Indigenous art, of course, is that it combines economic opportunities with strengthening, celebrating and respecting Indigenous cultures. It provides a clear pathway and one of those bridges which are so difficult to find in many cases for many Indigenous people who seek to maintain connection with and strength and continuing development of their cultures with wider mainstream Australia. So this is important in a wider sense and, in my view, important for the wider future of Australia beyond the im-
mediacy of the opportunities it presents to Indigenous artists.

There are a range of other recommendations contained within the report—29 in total. Another key recommendation is that, as a matter of priority, the government introduce revised legislation of Indigenous communal moral rights. This is a longstanding government pledge and one that the Democrats strongly support. Indeed, a former Democrat senator, Aden Ridgeway, was one who pushed this area quite significantly. It is not acceptable that there still has not been progress in this area. Certainly it is one area where the Democrats strongly believe—and its recommendations suggest that the committee as a whole also strongly believe—that this is something that should be acted on by government quite early.

There are other recommendations. In the interests of time and allowing some space for others to speak on other documents, I will not go into them here, but I urge people who are interested in this area of Indigenous art to consider this report because it is quite detailed and valuable. I would note the very valuable contributions of a number of the people who gave evidence both in person and through written submissions to this inquiry, because they did significantly inform the committee—and I should emphasise that many other senators had far greater involvement in this inquiry than I did. Due to time constraints I was not able to be as fully involved as I would have liked, but I certainly endorse the report and the importance of the area.

We should take the opportunity during this increased focus on Indigenous issues at the moment—I certainly welcome it, even if I do not welcome some of the government measures that are accompanying that increased focus—to look at some other areas where we need to do more, and this is certainly one of them. As any of us who have been to some of the many Indigenous communities as well as the many other centres around the country would know, there is some extraordinary and amazing art out there and many communities are now starting to tap into the potential through the internet for sales via that means.

It really does provide lots of positive opportunities for Indigenous people. But I do not think we should underestimate the benefits—and not just the economic benefits—to Australia as a whole. There is a lot of talk in other contexts about Australian values, Australian history and Australian culture. We as a nation have done very poorly at celebrating and recognising Indigenous cultures and really taking that onboard as part of what being Australian is all about. The more we can have a vibrant, effective and non-exploitative visual arts and crafts sector for Indigenous Australians, the greater the benefit would be, in my view, to how Australians perceive themselves, to Australia and to how we are perceived around the world as a whole. It is important beyond just the immediate confines of what opportunities it provides to Indigenous people. As I said, it is predominantly a unanimous report with a few minor variances in a couple of areas—important though they may be—one of which is the permit system in the Northern Territory, which we can talk about next week. It is predominantly unanimous, and that is all the more reason why it should be promptly and comprehensively adopted by the government.

Senator IAN MACDONALD (Queensland) (6.23 pm)—I want to support most of the deputy chair’s comments on the Indigenous art report. I had the honour to be a member of that committee and in fact chaired the first few days of the hearings when Senator Eggleston was not available. As one who does not have any appreciation of any fine art, I was absolutely blown away
by some of the Indigenous art I saw in the course of this inquiry. The committee travelled very widely in Western Australia, the Northern Territory and to some of the capital cities as well.

The report is a good one. It is unanimous. We were privileged indeed to have on our committee, towards the end of it at least, Senator the Hon. Rod Kemp who, when he was minister for the arts, actually gave the committee the reference. He ended up, after he retired from the ministry, actually being part of the committee. In answer to Senator Bartlett’s urging that the government respond: I know from Senator Kemp’s comments that the government will respond to this report, because it is a report that the government sought. The government was very keen to get an in-depth look at the Indigenous arts industry.

The range of paintings and art was just sensational to my very inexperienced and uncultured eye. There is a considerable amount of money flowing around the industry. I saw a painting on the wall of a gallery—I think it was in Kununurra; somewhere in Western Australia anyhow—that the gallery said had been sold for $140,000. There were others like that. That is obviously very much at the high end of the scale, but in a number of the galleries we visited I saw very good paintings. There seemed to be an average sale price from $3,000 up to $10,000 to $15,000. So there is a lot of money in it and, as Senator Bartlett mentioned, the committee recognised that even in the desert it is an industry that Indigenous people can do well and in which they can create wealth for their communities. There are not a lot of job opportunities, but good Indigenous artists can bring money back into their communities. It is not just the artist himself or herself; the paintings have to be framed, so Indigenous young people are learning how to frame art. Just packing them up and sending them away is an employment opportunity in itself. There was a lot of very positive activity happening there.

Indigenous art supports not only those communities but also a very big industry around it. There are a number of galleries and a huge number of buyers. I was very surprised just to see what an extensive industry it is. Not all is well in the state of the Indigenous arts industry, however. There is exploitation and fraudulent behaviour. There were some accusations about so-called ‘carpetbaggers’. There was evidence along these lines that buyers would come in, encourage—by deception or by means of alcohol or otherwise—Indigenous artists to mass produce art that they could pay not much more than a bit of alcohol for and then take it away and make big money out of. It seems like a simple proposition to address, but the committee found it very difficult. The majority of dealers and buyers are honourable. There is an organisation with a code of conduct. But there are, as in everything, one or two bad eggs who give that part of the industry a bad name.

We were given evidence that some Indigenous young people who wanted a car or something would take an elderly relative who was a very good artist away from the community, lock them into a hotel room and tell them they had to paint three or four paintings. They would then sell the art to a fraudulent dealer who would have arranged with them that for four paintings they would get a car. There is that bad side to the industry, but I do not want to emphasise that because, while there were some instances, by and large it is a very positive industry for Indigenous people. The report goes through a lot of those particular issues.

I want to mention—I cannot recall the name; I am not sure if there is anyone here that can help me—a community in the centre...
of Australia that has a fabulous Indigenous arts enterprise. They have their own gallery and centre. I should actually preface this by saying that the federal government does fund many Indigenous arts centres in many communities around Australia, and part of the call in the report is for the government to increase funding to some of those or in some other way support them.

But this group I was going to tell the Senate about opened a new $5 million art gallery just a few weeks after the committee was there. They pride themselves on the fact that they run this whole operation without one cent of government assistance, and they do not want any government assistance. This Indigenous community built this new $5 million gallery themselves, and they run it very well. They have been going for a long time and they know how to do it. Generally speaking, the communities sell the paintings, and around 40, 50 or 60 per cent of the sale price goes to the artists and the rest of it goes to the centre, out of which they pay for all the ongoing costs—and they employ other people. In this particular instance, they also built their own hospitals in their community, without government help, on the back of their share of the earnings from the art produced by this place. So there are a lot of very positive stories. The committee has made recommendations, which I know the government will respond to. It depends on the election, of course—but there will be a response. It certainly is a good report, and, for anyone interested in Indigenous art, a reading of that report would be very beneficial and interesting.

Question agreed to.
forestry activists—who, prior to the signing of this MOU, had sought to lock up that area of forestry operations entirely to make it a conservation area so that there would be no further forestry operations in that area. That MOU sends a message to me and to the community that Forestry Tasmania is willing to do a deal with the Greens to lock up more of Tasmania for forestry purposes. That is of great concern. It says to me that that is exactly what could happen at the federal level as well.

Why does it say in the body of that MOU that the agreement will be reviewed after the federal election? That says to me that federal Labor knows exactly what is going on. It says to me that there has been a wink and a nod. Why do I say that? Because Kevin Rudd, the federal Labor leader, has never said that there would be no further lockups in Tasmania. It says to me that he knows full well that he will do a preference deal with the Greens in the lead-up to the election and then, after the election, say that the Florentine Valley is ruled out for any further forestry operations, that it is a no-go zone, and that more of Tasmania will be locked up.

Why do I say that? Because I know what Labor’s federal environment spokesman, Peter Garrett, has said on the public record. I want to advise the Senate what he has said with respect to some of these areas. Let us go back to an AAP story on 1 August 1998, in which he is talking about RFAs. He said they are ‘a completely flawed and discredited process, initiated by government’. Of course, both sides of this parliament have previously supported the regional forest agreement which was initially signed in 1997 and the Tasmanian Community Forest Agreement, which was signed in 2005. That second five-year review of the Tasmanian Community Forest Agreement began on Monday, 28 May. We know Peter Garrett’s view on RFAs, but what else does he say about locking up further parts of Tasmania? On the Sunday program on 1 April 2007, he said: I won’t be opposing the policy, Laurie. that is, Laurie Oakes—

What we have now is policy that’s been agreed by the Caucus, that’s in that draft platform—

the federal Labor platform—

it’s policy that reflects not only the RFAs, it also reflects the Tasmanian community agreements on forests, and it also reflects a number of important principles about forestry, which include no overall job losses in the sector, a sustainable forestry industry, consultation with unions, with the government—

and this is the important part—

and also further protection of identified, properly identified, high conservation value forests and other natural ecosystems, and that’s as it should be.

That is a reason for the concern. This was essentially reiterated on 13 January 2007, just some months ago, in the Australian newspaper, where Mr Garrett said:
The principles that will guide Labor’s forest policies are further protection of identified high conservation value old-growth forests ...

We know what that means: more lockups in Tasmania are on the way. We have a Labor-Greens accord heading our way at a federal level and, in my view, that will be bad for Tasmania. It will be bad for the timber industry, it will be bad for jobs, and it is not what we want. I would like federal Labor to come clean and say exactly what they have planned for Tasmania. Why won’t Mr Rudd rule out further lockups in Tasmania?

I note the Prime Minister’s recent comments in the Australian on 9 August 2007. He warned that Australia faced a ‘Garrett recession’ caused by delivering a 60 per cent cut in greenhouse emissions, which has been promised by Labor. That is the Prime Minister’s view, and I think he is entirely right. He has substance in putting that view forward.
So we are heading towards a federal Labor-Greens accord, like we had in Tasmania at the state parliamentary level. To think that the state Labor government would sign an MOU, an agreement with forestry activists, which actually said: ‘Yes, you agree not to conduct and undertake criminal activity.’ So they will go to that level and say, ‘The Florentine Valley is likely to be locked up. We want you out of there. You won’t be conducting criminal activity there against forestry operations. We’re pleased about that.’ They are willing to stoop that low. That concerns me greatly. I think it will concern the timber communities of Tasmania.

I commend Barry Chipman and his team right across the state for the work that they are undertaking in supporting Timber Communities Australia. They have branches all around the state standing up for timber communities and saying that they are important for Tasmania. Yes, it must be balanced. I make no apologies for saying that we need strict environmental guidelines applied. In making these comments, I refer to the Federal Court decision today, which has knocked out entirely the Tasmanian Wilderness Society’s appeal against Malcolm Turnbull, as the federal minister.

Senator Ian Macdonald—That’s excellent. I hadn’t heard that.

Senator Barnett—Yes, it is excellent, Senator Ian Macdonald. Thank you for that comment. It has been knocked out entirely, and Mr Turnbull’s position on the pulp mill for Tasmania has been supported, so he is entitled to proceed in accordance with the law under the Environment Protection and Biodiversity Conservation Act. He is no doubt doing that diligently and professionally, as he has been doing to date. I am very concerned on behalf of the people of Tasmania that there will be a federal Labor-Greens accord—like the state Labor-Greens accord we have had in Tasmania. The writing is on the wall. We have seen it with this MOU and with federal Labor leader, Kevin Rudd, not ruling out any further lockups. That is the concern I have.

Senator Ian Macdonald (Queensland) (6.41 pm)—I am also a member of this particular committee, although the inquiry had started before I joined it. I want to make some comments on the report. Senator Barnett has scared me with his comments about the Tasmanian Labor-Greens accord. We all remember the last time the Labor Party thrashed about to find a new messiah and came up with Mark Latham, who would have sold Tasmania down the drain, along with all the workers and everyone else. At that time, he was enthusiastically supported by all of the people who are currently in the Labor Party in determining policy. Senator Barnett, there are elements of fact behind the record of the Labor Party that make your warnings very appropriate.

I move on to the committee report. The committee had a lot of evidence before it, but one of the themes that came through in considering Australia’s national parks, conservation reserves and marine protected areas is that governments, particularly state governments, are very keen to establish national parks, usually in the 12 months before a state election, because it gives them green credentials and, in this way, they can guarantee that they will always get Greens preferences. You hear various members of the Greens political party berating, for example, Peter Beattie in my state, and yet you can bet your last dollar that, come the election, they will again preference Mr Beattie. Watch this federal election too. Some in the Greens political party, in some of their committee work—
should be some flexibility in relation to some of the discussions that go on about committee reports, but at least there ought to be some attempt made to link what the good senator is actually talking about to the report itself. I suggest that it has no relevance whatsoever and that, if he does not have anything to say about the report, he should wind up his comments and we can move on.

The ACTING DEPUTY PRESIDENT (Senator Lightfoot)—Senator Marshall, you have made your point.

Senator IAN MACDONALD—Clearly, Senator Marshall has not read the report. He certainly was not on the committee and does not have a clue as to what is in the report. The matters I am talking about are actually germane to the report. I think they constitute a recommendation of the committee—that is, that state governments create these national parks to get Greens preferences and have an aura of environmental concern as they run into the 12 months before the state election. Then, once the national parks are set up, they do not spend a cent on them. The management of national parks—and this committee report is very clearly critical of the management by state governments—

Senator Siewert—I raise a point of order, Mr Acting Deputy President. I was a member of this committee and we did not receive evidence to the nature that state governments—

The ACTING DEPUTY PRESIDENT—What is your point of order?

Senator Siewert—The point of order is that Senator Macdonald, unfortunately, is not representing the facts of the report. He is making his own commentary. He is not representing the facts as presented to the committee.

The ACTING DEPUTY PRESIDENT—There is no point of order, Senator Siewert.

The remarks that Senator Macdonald was making were relevant and they were—

Senator Siewert interjecting—

The ACTING DEPUTY PRESIDENT—You should not interrupt me when I am speaking, Senator Siewert. The remarks that Senator Macdonald was making were relevant. They may not have suited you, Senator Siewert, but they were relevant.

Senator IAN MACDONALD—They certainly are my own commentary. I am not pretending, Senator Siewert, to be speaking for you or for other members of the committee, but there was clearly evidence before the committee of concern at the lack of funding for management of national parks—

Senator Siewert interjecting—

The ACTING DEPUTY PRESIDENT—Senator Macdonald, I wonder whether you would be kind enough to direct your remarks through the chair. Senator Siewert, you will have ample opportunity, if you wish, to speak on this report No. 12 after Senator Macdonald has finished.

Senator IAN MACDONALD—Senator Siewert, Mr Acting Deputy President, by way of disorderly interjection is saying to me that my commentary—that not a cent has been spent—is not accurate. Well, perhaps I am using 'not a cent' in a way of emphasising that state governments, in particular, do not spend anywhere near sufficiently. You could almost say that, for the small amounts of money they do spend, they might as well not spend a cent, because those small amounts are not adequate to properly manage national parks. As a consequence, national parks have become a haven for feral animals and weeds.

The Australian government spends tens of millions of dollars every year to address the weed menace. Incidentally, this is a responsibility for state and local governments but which has not been taken up by state gov-
ernments, so the federal government spends tens of millions of dollars every year to address the weed menace. And what do state governments do? They actually harbour the weeds in these national parks. They do not spend sufficient money on weed control in the national parks. All the farmers, land owners, environment groups and natural resource management groups spend a lot of money on land surrounding national parks to get rid of weeds. All of that work, effort and money is to no avail, because the weeds simply get blown out of the national parks onto the adjoining farming land.

Anyone on the land who lives near a national park—well, certainly up my way—will tell you about pigs and other feral animals that take refuge in the national parks and then come out and destroy the Australian biodiversity. We spend a lot of time complaining about the reduction of our natural biodiversity in Australia, and one of the causes of that is national parks that are not properly managed, principally by state governments. The federal government manages some national parks and we manage marine national parks. We try to put a bit of money in it and, I think, there was a general consensus—Senator Siewert will correct me if I am wrong, I am sure—that parks managed by the federal government are better resourced and better managed. It is of great concern to me—and I try not to make this a political point, but it is true—that Labor state governments have been very good at establishing national parks and then putting very little money—I am not saying none—into their proper maintenance.

Mr Acting Deputy President, I know that you know that weeds cost Australia $4 billion every year. The federal government’s Defeating the Weed Menace program put in, I think, $45 million over several years and then there was an addition to that, if I recall correctly, of another $20 million. We put a lot of money into addressing weed control, but what do the state governments do? They create more national parks which form havens for weeds that blow out, and it means that we are really chasing our tails. One government puts money in to try and address a $4 billion problem and another government keeps creating national parks without the proper management.

I like national parks and many national parks that are created are good. Some of the Labor governments in New South Wales, Victoria and Tasmania have created national parks in good native timber growing areas, and they have done that for political reasons, not for conservation reasons. Where they are properly placed, national parks do protect Australia’s very unique biodiversity, but they do not protect it unless they are properly managed. This committee report highlights the desperate need for better management by all governments, but particularly by state governments, of national parks that have been created. I will conclude my remarks there.

Senator BARTLETT (Queensland) (6.51 pm)—I think I should add some contributions on the thrust of the report Conserving Australia: Australia’s national parks, conservation reserves and marine protected areas, which I emphasise was a unanimous report apart from one recommendation that Senator Siewert dissented from. That did not touch on any of the issues that anybody has talked about, although, as Senator Siewert and Senator Marshall pointed out, some of those issues have not actually had a lot to do with the report either.

Senator Barnett’s contribution was interesting. I will not spend my time going through that at length but, inasmuch as it was relevant to the report—and I do not think it was at all—it was expressing concern about the potential for further protection of forests.
It is a pretty clear and unanimous recommendation of this report that we do need to have an expansion of protected areas in Australia through a range of mechanisms, including expanding our National Reserve System targets and funding. That is far more than old-growth forests. But to suggest, in speaking to a report that was chaired by a government senator and endorsed by all government senators, including Senator Ian Macdonald, that any hint of expansion and protection of old-growth forests is a horrendous thing strikes me as rather perverse. I am certainly not going to enter into the detail of all the disputes in Tasmania. You can have arguments about different areas, whether or not certain areas are suitable and all the different issues, but to suggest that, as a basic principle, further protection of forests is a bad idea or an ominous concept is extremely worrying. I hope it represents just Senator Barnett’s view and not that of the coalition. It certainly does not represent the views of the coalition senators on the committee.

It is certainly not my place here to defend Mr Garrett, the opposition shadow minister for the environment, but I think quoting him from 1998 about his views before he got into parliament is not overly fair. I also think that to suggest that any commentary he has appropriately made about expanding further protection is somehow an ominous thing is going completely against the thrust of the report that he was speaking to, which, I say once again, was endorsed by all of the coalition committee members and was, at least in the latter parts of the inquiry, chaired by a coalition senator. This inquiry was one in which I was chair of the relevant Senate committee until the government took over all of the Senate committees and made themselves chair of all of them. That is not a reflection on the current chair, I hasten to add. The inquiry was nonetheless almost entirely unanimous, and I want to return to the specific and important recommendations of the report, which were unanimously supported.

It particularly included a strong recommendation to boost National Reserve System investment, expanding protected areas in a wide range of capacities. That does not just mean putting them all in national parks, by any means. It is something that the Tourism and Transport Forum, through its Natural Tourism Partnerships Action Plan, has recognised as something that is needed and that is beneficial from an economic point of view. I point to the evidence given to the Senate committee inquiry that the investment to date by the federal government in the National Reserve System has been incredibly effective. The only real shortcoming is that there has not been enough. It is an example of the constructive approach that certainly the Democrats take—and that in this case all members of the committee, from all parties, took—in not just continually criticising what others do and what the government does but looking to identify areas that are working, seeking to encourage further support for those measures that are effective and a good investment and building and expanding on those investments. The Democrats strongly support the recommendations in this report that call for an expansion of the National Reserve System investment.

I point to a recent report on protected areas which came from the proceedings of a conference of the IUCN World Commission on Protected Areas with the support of WWF. That was held in Canberra in June, not long after this report was tabled. It showed that the committee, by and large, was on the right track, which was pleasing to me. This symposium brought out a significant range of recommendations in a report that certainly was consistent, in large part, with what the Senate committee recommended. As I did before and will do regularly with committee reports, I urge the gov-
ernment to take it on board and urge the relevant minister to respond to it promptly and comprehensively.

By way of demonstrating how that sometimes does not happen, I refer to two of the report’s specific and very straightforward recommendations that the government actually respond to a 2004 report from the committee on weeds and invasive species, which has still not been responded to. I heard some of Senator Macdonald’s commentary about weeds and invasives and how national parks, when they are not properly managed, are a problem in that regard. I certainly agree that if areas are not properly managed—whether they be national parks, other protected areas or private land in general—and do not have enough resources put into them then invasives, including weeds, can be a problem. The suggestion that national parks are just a breeding ground for weeds that escape onto farmers’ land which is otherwise pristine and wonderful is a gross exaggeration, but certainly there is an issue of ensuring that invasives are properly dealt with in national parks as well. Frankly, if the government were that concerned about invasives and that willing to properly do what needs to be done, they would have bothered responding to the Senate inquiry into that, which we had over three years ago. That is not to say that they have done nothing in this area in the last three years. But that was a comprehensive, unanimous inquiry, over three years ago, which had a comprehensive range of recommendations and would have significantly addressed the problem of invasives, whether you are talking about national parks or anywhere else, to which the government has yet to respond. To me, that shows the real commitment—or lack of real commitment—from the government in this area.

I also want to emphasise why this report is important in a wider sense. It is not just about increasing protected areas because they are pretty and we will get tourists in there and make money. Protected areas are absolutely critical for protecting and maintaining biodiversity, and that is a fundamental protection and insurance to minimise the ecological damage caused by climate change. What we really need to do—and the report goes to this to some extent, although not as much as I would have liked—is more clearly identify how we can put in place insurance, if you like, through our protected areas system against the threat to biodiversity of climate change.

Biodiversity is not just a nice scientific concept. It is actually one of the most fundamental things for maintaining ecological health, and that means ecological health for all of our ecosystems. It includes clean water, productivity of land, maintaining Indigenous cultural practices and a whole range of other things. Biodiversity being put at risk, as it is by climate change, threatens all of us in a very direct economic sense as well as an environmental sense. By expanding the National Reserve System, we can make a very effective investment at not very significant cost. The WWF has called for a minimum of $250 million over five years. That is only $50 million a year.

I would also emphasise the importance of integrating better management across the landscape. This is where the report, I think, has some valuable contributions to make in demonstrating it is not just about more national parks. It is the role of private landholders, it is the role of protected areas and conservation reserves and it is the role of non-government organisations such as the wildlife conservancies and others—non-government organisations that also manage areas of ecological significance and in many cases provide connectivity that joins up different areas. That can very much increase the strength and protection of biodiversity against climate change, improve integrated
management across the landscape and provide greater opportunities for engagement with traditional Indigenous owners. Indigenous knowledge about land management and practices is a massive wellspring of land management knowledge and practices we are not making full use of. I would re-emphasise the value of the committee’s report and recommendations to take better respect and advantage of Indigenous knowledge and expand Indigenous protected areas. *(Time expired)*

Senator SIEWERT (Western Australia) *(7.01 pm)*—I seek leave to continue my remarks.

Leave granted; debate adjourned.

**Consideration**

The following orders of the day relating to committee reports and government responses were considered:

- Corporations and Financial Services—Joint Statutory Committee—Report—The structure and operation of the superannuation industry. Motion of the chair of the committee (Senator Chapman) to take note of report agreed to.
- Rural and Regional Affairs and Transport—Standing Committee—Report—Administration of the Department of Agriculture, Fisheries and Forestry, Biosecurity Australia and AQIS in relation to the final import risk analysis report for apples from New Zealand. Motion of Senator Nash to take note of report agreed to.
- Electoral Matters—Joint Standing Committee—Report—Civics and electoral education. Motion of Senator Fierravanti-Wells to take note of report agreed to.
- Foreign Affairs, Defence and Trade—Joint Standing Committee—Review of Australia-New Zealand trade and investment relations—Government response. Motion of Senator Webber to take note of document agreed to.
- Foreign Affairs, Defence and Trade—Joint Standing Committee—Report—Expanding Australia’s trade and investment relations with North Africa—Government response. Motion of Senator Webber to take note of document agreed to.
- Foreign Affairs, Defence and Trade References Committee—Report—Mr Chen Yonglin’s request for political asylum—Government response. Motion of Senator Bartlett to take note of document agreed to.
- Community Affairs—Standing Committee—Beyond petrol sniffing: Renewing hope for Indigenous communities—Additional information. Motion of the chair of the committee (Senator Humphries) to take note of document called. On the motion of Senator Bartlett the debate was adjourned till the next day of sitting.
- Treaties—Joint Standing Committee—Report 83—Treaties tabled on 20 June (2), 17 October, 28 November (2) 2006 and CO₂ sequestration in sub-seabed formations. Motion of Senator Wortley to take note of report agreed to.
- National Capital and External Territories—Joint Standing Committee—Report—Antarctica: Australia’s pristine frontier: The adequacy of funding for Australia’s Antarctic Program—Government response. Motion of Senator Campbell to take note of document called on. On the motion of Senator McGauran the debate was adjourned till the next day of sitting.
- Finance and Public Administration—Standing Committee—Report—Transparency and accountability of Commonwealth
public funding and expenditure. Motion of Senator Nash to take note of report agreed to.

Finance and Public Administration—Standing Committee—Report—Departmental and agency contracts: Second report on the operation of the Senate order for the production of lists of departmental and agency contracts (2003-06). Motion of the Parliamentary Secretary to the Minister for Health and Ageing (Senator Mason) to take note of report agreed to.


AUDITOR-GENERAL’S REPORTS

Consideration

The following order of the day relating to reports of the Auditor-General was considered:

Auditor-General—Audit report no. 20 of 2006-07—Performance audit—Purchase, chartering and modification of the new fleet oiler: Department of Defence; Defence Materiel Organisation. Motion of Senator Hogg to take note of document agreed to.

Orders of the day nos 2 to 38 relating to reports of the Auditor-General were called on but no motion was moved.

ADJOURNMENT

The ACTING DEPUTY PRESIDENT (Senator Marshall)—Order! It being 7.03 pm, I propose the question:

That the Senate do now adjourn.

Respite

Senator BOYCE (Queensland) (7.03 pm)—Tonight I want to talk about the topic of respite, in the sense that the term is currently used to describe the support given to families who care for a person with a disability. According to the Oxford dictionary, ‘respite’ means ‘a short period of rest or relief from something difficult’. There is no doubt that full-time, unremitting care for a person with a disability can be something difficult. Many families undertake extraordinary workloads, with very little support. A recent report from Carers Australia showed that on average the carers of people with mental illness spent an average of 104 hours a week in the care and monitoring of that person. One mother commented:

It’s so undignified asking for help. I virtually had to slash my wrists and drop blood all over their desks before the administration would give me respite.

And, chillingly, there are parents who, in desperation, have done worse.

I am proud that our government has recognised the needs of these families, with funding of $1.8 billion for respite and accommodation services. But now that the public call for tenders for provision of these respite services under this funding has been made, I would like to urge all those in the disability sector to rethink respite. In fact, I think it is time we found a whole new term for it. The term ‘respite’ describes a one-way street—a break from—not a mutual opportunity for productive and enjoyable time apart for all the parties involved.

Every member of any functional family group needs respite from the other members of that group. No matter how dearly we care for those we live with, almost none of us could cope with 24 hours a day, seven days a week together. For some families, respite means dad’s Saturday golf, and it is not just respite for dad. And then there is work, school and many different sporting and recreation activities that constitute a normal life. But in most families these opportunities for respite are wound into the fabric of everyday life. They are chosen freely by the partici-
pants because the individual enjoys them and finds them productive.

So it is not in fact the respite itself that any of us need. What we all need are opportunities for productive and enjoyable stimulation, relaxation, rest or recovery. It is only within the disability and aged sector that respite is generally seen as the answer to that need. There is a danger, when we characterise respite for families that include a person with a disability as a break away from the person with a disability, that we ignore or discount the needs of that person with a disability. There is a danger, when we view the person with a disability only as a burden, that the person with a disability is placed into a program, any program.

Research shows that very few families—and even fewer people with a disability—are happy with the respite service opportunities that are currently available. In my view, this is because the respite opportunities are generally inflexible and completely at odds with that idea of respite as part of a normal life or of normal routines. At present, most respite services offered are in day centres or overnight care for varying periods, and sometimes, occasionally, in-home assistance is available. In many cases, these services are just a temporary fix. They do nothing to improve the overall lives or quality of life of families or the individuals within them. Families may get a break from the physical care of the person with a disability, but that is all. Their concern, even guilt, about leaving their loved one in an unfamiliar environment where their needs and wishes are often poorly understood certainly does not provide mental rest and recovery for the family. On the flip side, many people with a disability view respite as punitive. A week or so in a strange and stressful environment often means the person returns home more stressed than when they left, and the circle and the need for respite within the family starts all over again.

I would like to turn around the way we view respite for people with a disability and their families. Respite must be normalised. By that I mean, instead of formalising respite by taking the person with a disability out of the family and into a structured, inflexible program or service, we need to look at how other families achieve respite from each other—the Saturday afternoon golf and so forth that I was talking about before. We need to bring respite into the family, to weave respite into normal everyday life for families that include a person with a disability—just like other families do. Most families do not see the natural breaks that they have from each other as respite because they have functioning and supported lives. For families caring for a person with a disability there may well be very little support. Families can live very isolated lives, but the provision of respite services does nothing to assist this. Taking the person with a disability away does not diminish their social isolation within their local community and it brings nothing new into the lives of the families and the parents.

I truly appreciate that there are many families desperately in need of support in their full-time care of a loved one with a disability. But respite, as the term is currently understood, is not the answer. The answer is to build opportunities for rest, recovery and stimulation into the everyday lives of these families. And this is not best done in a bricks and mortar respite centre away from the local community and away from the family home for slabs of time. It is best done by supporting the rhythms of everyday life, of ordinary life—perhaps someone who can assist at mealtimes, perhaps someone to come to the house to offer art or music classes while the rest of the family go about what they would like to do, perhaps someone to accompany
the family on holidays so everyone gets a break.

Currently, much respite simply helps dysfunctional families to remain dysfunctional: they are not quite in crisis, but they are on the verge of it. If we continue to provide respite by making it a fix that goes outside the network, outside the family and which does nothing to help build social relationships and community relationships for these families and for these people, then we just continue this cycle. We do nothing to improve the lives of the person with a disability; we do nothing to improve the community connections and the relationships of the other family members within this situation. To me, the more normal we can make respite services, the better and more long-lasting the benefits for families will be. I encourage any organisation—I particularly encourage smaller organisations—to consider applying to offer the respite services under the government round of funding that is currently available. But I would ask them to look at this in terms of how you might bring respite into a family’s life, not take a person out of the family to offer them respite. We can make some big advances in improving overall lives, not just having little fixes that improve things for that instant but do not improve things overall.

Welfare to Work

Senator SIEWERT (Western Australia) (7.12 pm)—I rise tonight to continue relating stories about the hardships that people are suffering under the Welfare to Work reforms. In this particular instance I will tell more stories about the JET program. During the break between the last sitting period and this one, I helped to host a forum at Murdoch University on the issues affecting single mothers and the JET program. A number of mothers told their stories about the difficulties they are having combining their study and looking after their children. I will note that immediately after this forum we heard that the government had slightly relaxed the rules around JET. Before this, the rules were that not only could you only have funding for 12 months, but they would only fund you to participate in a course of study that was less than 12 months. They have changed that slightly so that you can now study a course that is longer than 12 months, but you still only get funding for 12 months. In other words: if you are doing a university course that is three or four years in length, which most university courses are, it means you can still only do one year of that course with the JET funding.

I have a number of stories to tell of the mothers who presented at the forum. This is the first one:

I am one of the mothers Peter Costello wanted for Australia. He said have one child for Daddy, one for Mummy and one for the country. I have done just that, I have given birth to three children. I admire Dr Fiona Woods, she has contributed so much to this country and has six children. I would like to contribute to some degree. I just want a chance to contribute my potential to my country and I believe I can contribute substantially. I believe I can give the country more than just another two hands. So I have chosen to have a good, world class university education as a keystone to this contribution.

This year I commenced furthering my education at Murdoch University.

The Government asked me to contribute by mothering three Australian citizens and I have done that. What has my Government done for me? They have removed my access to JET “quietly”. JET is now only available for short courses less than 12 months and does not apply to university education.

I have done my bit as I have been asked and now I am studying to contribute to the cleverer country that Australia must become. So what has the Government done in its wisdom to make Australia a more intelligent place? They are forcing mothers to accept a non-university education
qualifying them to work as second class citizens. Mothers are being forced to work as unskilled workers and semi skilled workers. So what Peter really meant is ‘woman, become a mother and that is all you will be.’

In other words what this Government has said is ‘give us your womb and we will give you second class citizenship.’

It is very difficult for a mother of three to get a tertiary education. Mature age students have to pass a STAT entrance test to gain tertiary education entry. Then there are at least 3 years of full time study load to get a basic degree.

Personally I do not have the money for child care so my potential risks being overlooked and any contribution I have to offer may eventually be imported in the form of yet more migrant workers. Last semester it cost me $5000 of my savings in child care and I don’t know where I will find the money for this semester.

It seems I have made a mistake having children first. I feel I am being punished for listening to my government and having three children. Fertility decreases rapidly with age, the mind and the will to succeed do not. It seems our current leaders are more concerned with getting elected with ill-conceived policies that are devoid of foresight.

If this country talks about equality, removing the opportunity for mothers to be educated, that is not equality. So Peter pay your bill. You asked for children for this country, now pay up.

Another mother said:

I am a single parent and I have a daughter who has just turned three. I am currently studying for a BA in Education specialising in Special Needs.

I was disappointed when I called Centrelink halfway through last year to find out that the JET payments that were once available to any single parent studying had in fact been restricted to those studying a course of 12 months duration or less.

I felt like I had been penalised for pursuing a course of study that would enable me to have a decent career. My long term commitment is to get off Parenting Payments altogether and support myself and my daughter, but what incentive does the Government offer to help me achieve my goal to be independent of financial support? Not a lot.

It seems obvious that the Government is more interested in short term solutions to unemployment and positive statistics rather than supporting those who choose to enter professions requiring higher levels of skills and qualifications.

The way I see it is by offering JET payments only to those who are studying short term courses, there is a higher turnover to those completing their courses and they enter the workforce at a much higher rate. This way the Federal Government can consistently show positive statistics in relation to the funds (ie JET) that it is pumping into unemployment and can say that it is doing its job.

The decision to restrict the JET payments is grossly short sighted and will only perpetuate the unemployment dilemma in the long term. 12 month courses and certificate 3 or 4 courses only enable people to enter jobs at a base level and don’t really give them opportunities for advancement at higher levels within that field of work, if a pre-requisite for advancement is a higher level of qualification.

The Government should also be supporting those who want to enter into occupations which require a degree.

JET payments should be available for all single parents who are studying. Why should I be discriminated against because its going to take a little longer to reach the workforce?

This is hypocrisy at its best, at a time when fields such as teaching are suffering from a shortage of qualified personnel, surely a balanced long term view would be to encourage, by any means available, those who choose to enter the profession.

To this end, JET payments would go a long way to encouraging single parents to enter the professions so desperately in need of qualified practitioners, by giving them much needed financial assistance to ensure they can afford the high cost of professional care for their children, thus enabling them to complete their course of study.

Even after receiving the 100% child care rebate, my daughters Day Care fees use up to 40% of my parenting pension. To make matters worse is the fact I can’t earn more than $70.00 a week without
my parenting payments being significantly reduced ... effectively I can’t even earn more money to alleviate the child care costs while I am studying. My rent uses up 50%, leaving me with the remaining 10% to buy food and petrol which simply is not enough. I use my daughter’s child support money to pay bills and insurances. I am constantly receiving dishonour fees from my bank because my account never has enough money in it. It is such a frustrating experience, I cannot stress this enough.

I would like to reiterate, that if the Federal Government were truly committed to assisting single parents to enter the workforce, the level of qualification required, be it Certificate 4 or a degree should not be an issue. The JET payment for courses longer than 12 months in duration should never have been revoked.

This is from another mother:

I received a letter from Centrelink advising me that as I was studying a course for longer than 12 months I was no longer eligible for the ... Jobs, Education & Training Child Care Fee Assistance.

I appealed twice to Centrelink (and failed) and was told to go to the Ombudsman as a last resort and then quietly told that it was most likely that there would be no chance of my case ... being reinstated.

As a result of the cut of the JETCCFA, to courses longer than 12 months I lost 5 hours of University lecture and tutorial time per week, I had to pull out of a car pool as these hours reduced and this increased my cost by $20 per week. When my safety net/bills/emergency/medical are paid, the amount left on my budget is $40 (week)—this hurt.

So here I am 12 months later, still writing unanswered emails and letters to Ministers of Parliament, Senate, radio stations, newspapers and whichever address I can find that might remedy my situation.

I still need to cut class so I can drop and pick my 6 year old son up from school. I have moved to the metropolitan area away from my family and friends in Mandurah, which means any free babysitting help has also gone.

Thinking about next year terrifies me. In the last year of my degree I have approximately 15 weeks where I must leave home at 7.45am and not be home until about 4.45pm, this is in order to meet the professional standards of my teaching practicum. I have no one to ask to look after my son for this period of time.

These are yet further examples of how this ridiculous restriction on JET is hurting single parents, 85 per cent of whom are single mothers. If we are serious about supporting people out of welfare and into jobs, the government would now immediately reconsider this ridiculous restriction on JET. Single mothers need childcare assistance to help them study for their courses, to get a job and to move off welfare. *(Time expired)*

**Iraq**

*Senator FIFIELD* (Victoria) *(7.22 pm)—*

Every day we are reminded of the enormous challenges facing the people of Iraq as sectarian militias and al-Qaeda terrorists continue to wage acts of senseless violence against the Iraqi people. Our television screens are inundated with coverage of events in Baghdad and its surrounds. But we hear virtually nothing of the plight of the Assyrian and Chaldean Christian minority, whose community is predominantly based in northern Iraq. Most people would be surprised to hear that Iraq is home to one of the world’s oldest Christian communities, consisting mainly of Chaldean Catholics and Assyrian Christians. The Christians of Iraq have been there for over 2,000 years and still pray in Aramaic, the language of Jesus. In 2003 there were estimated to be around half a million Christians in Iraq, but faced with vicious persecution from radical Muslims many have now left. Some estimate that the Iraqi Christian population has in fact now halved. Christian Iraqi refugees have fled to neighbouring Turkey, Jordan and Syria.

The targeting of Iraqi Christians has been comprehensive and relentless. They have been threatened and driven from their homes. They have been harassed, assaulted and kid-
napped. They have been extorted and ordered to convert to Islam. Their churches have been bombed, and many priests and nuns have been murdered. In the past six months alone, according to one report, seven priests have been kidnapped—with two of those murdered. To protect themselves, Christians are forced to hide their religious identity. Christian women regularly wear the hijab, whilst the crucifix on churches and worn around necks is hidden from view. Radical Muslims have been demanding that Christians convert to Islam or pay the so-called ‘head tax’, the jizya. Those who refuse are threatened with violence. Some have decided that openly practising their Christian faith is now simply too dangerous. They are effectively prisoners in their own homes.

Earlier this year, a letter circulated by the Moqtada al-Sadr aligned Mehdi Army in Baghdad warned Christian women to wear the veil. The letter asked, ‘What measure should be taken against a woman who disobeys her father, husband or guardian by not committing to the legal veil?’ The letter advised that husbands and fathers ‘must guide and educate her religiously in order to convince her’. It continued, ‘If she is not convinced still then they must imprison her at home and not expose her to the forbidden interaction with men.’ In June, in the city of Mosul in northern Iraq, a Chaldean Catholic priest and three of his subdeacons were shot dead outside their church. Father Ragheed Ganni was a respected local priest, and he was just 31 years old. He and his three assistants were told that they would be spared if they renounced their faith and converted to Islam. All of them refused. Sadly, this is what the people of Iraq have come to expect from those who want to impose a radical Islamic state and sharia law. This is the level of freedom of religion that these Islamic extremists want to bring to bear.

What a shocking reality the Christians of Iraq face each day. Simply for daring to observe a faith other than a radical form of Islam they are made to suffer. We are told often that we should be tolerant. But why is it that those who speak of tolerance are so often intolerant of other faiths? If you look at authentic Islam, you do see a genuine exhortation to tolerance. But that is not manifest in this particular radical form of Islam. This sort of religious bullying is something that is alarmingly prevalent in radical Islam, which many would argue is at odds with mainstream Islam. This is a real problem for contemporary Islam. I will cite two recent examples. When a Danish newspaper published disparaging cartoons of the prophet Mohammed, violent rioting erupted across the Muslim world—as we all remember. Angry mobs took to the streets. Effigies were burnt. Flags were desecrated. Danish embassies around the world were threatened with bombs and had to be evacuated. Danish companies were boycotted. Similar scenes erupted after a speech by Pope Benedict last year. That radical Muslims reacted violently to a speech commenting on Islam and violence was an irony that was not lost on many.

In Iraq the reaction to the Pope’s speech was sickening. In Mosul a priest was kidnapped. Despite his church complying with the demands of the kidnappers to put up posters repudiating the Pope’s comments, the priest was killed. His decapitated body was found a week later. Contrast these episodes with the restraint shown by the Israeli people in the face of constant threats from the Islamic Republic of Iran. That radical Islam is a dangerously violent faith that in Iraq is manifesting itself in the brutal persecution of Christians is a sad truth. But you will not hear much about Christian persecution through the media. The systematic persecution and violence perpetrated against Iraqi Christians by Muslim extremists does not fit
well with the anti-Western, anti-American editorial line of some media outlets. If there is something to be drawn from the suffering of Iraq’s Christians, it is this: we must stay the course in Iraq lest it descend into complete and utter chaos and violence. If it were not for the presence of the United States and its allies, including Australia, Iraq would plunge into civil war and, worse still, run the risk of triggering a catastrophic ethnic cleansing of many groups in Iraq—including the Assyrian Christian minority. That is just part of the reason why we should not cut and run on Iraq. The consequences are too dangerous and do not bear considering.

During his recent visit to Australia and when meeting with the Prime Minister, Iraq’s Prime Minister Maliki praised the role of Australian forces in Iraq and indicated his wish that Australian forces remain until such time as Iraq is able to take responsibility for its own security. During his recent visit to Iraq, our foreign minister underlined to the Iraqis the vital need for progress on reconciliation and population security for all Iraqis in order to build a stable and prosperous Iraq. These points were reiterated to Iraq’s foreign minister during his recent visit to Australia. Australia is doing its part to assist, not just on the ground in Iraq; the government has also accepted over 10,000 Iraqis under the humanitarian program since 2001. Iraqi nationals represented the second highest number of humanitarian visas granted in 2005-06, and earlier this year the government announced a further $6 million to assist displaced Iraqis.

Iraq is on the road to freedom and a more secure future, although it is a rocky road to that future and there are many challenges ahead. None of us deny that it is an extremely difficult situation in Iraq, but amidst the violence endured by Iraqi Christians there is hope for the future. They have a spirit of persistence and a strong desire to determine their own destiny. I do not think that it is just in the Assyrian and Chaldean communities but that it permeates through the entire Iraqi community. Perhaps Louis Sako, an Assyrian Archbishop based in Kirkuk, put it best when he said:

Now we are looking forward for a new Iraq, a new country, where each one of us can live with dignity and freedom.

That should be the goal of Australian assistance in Iraq, and we should be particularly mindful of the Assyrian Christian minority and the Chaldean community.

Senate adjourned at 7.31 pm

DOCUMENTS
Tabling
The following documents were tabled by the Clerk:

[Legislative instruments are identified by a Federal Register of Legislative Instruments (FRLI) number]


Civil Aviation Act—Civil Aviation Safety Regulations—Airworthiness Directives—Part—105—

AD/A109/59—Overhead Panel Circuit Breakers [F2007L02348]*.

AD/A320/204 Amdt 1—Centre and Outer Wing Box at level of Rib 1 Junction [F2007L02433]*.

AD/A320/207—Flight Controls – Trimmmable Horizontal Stabilizer Actuator [F2007L02349]*.

AD/A320/208—MLG Door Keel Beam Hinge and Actuator Fitting [F2007L02432]*.

AD/AS 355/85 Amdt 3—Sliding Door Rear Fitting Pin [F2007L02434]*.
AD/AT 600/4 Amdt 1—Engine Mount [F2007L02435]*.
AD/AT 800/9 Amdt 1—Engine Mount [F2007L02436]*.
AD/ATR 42/13—MLG Swinging Lever Spacer [F2007L02437]*.
AD/ATR 42/14—Structural Fatigue Tests – Inspection Requirements [F2007L02438]*.
AD/ATR 42/15—Wing Inner Skin Surface at Rear Spar Junction [F2007L02439]*.
AD/ATR 42/16—Windshield Frame [F2007L02441]*.
AD/ATR 42/17—Thermal/Acoustic Insulation Blankets [F2007L02442]*.
AD/B717/22—First Officer Pitot Static Heater System [F2007L02434]*.
AD/B717/23—Fuel Boost Pump Container [F2007L02435]*.
AD/B737/141 Amdt 1—Forward Pressure Bulkhead [F2007L02444]*.
AD/B737/305—Fuel Crossfeed Valve [F2007L02356]*.
AD/B747/358—Integrated Display System and Fuel Tank Safety [F2007L02358]*.
AD/BEECH 90/103—Flight Control System [F2007L02444]*.
AD/BELL 206/161 Amdt 1—Power Turbine RPM Steady State Operation [F2007L02360]*.
AD/BELL 222/34 Amdt 1—Tail Rotor Counterweight Bellcrank [F2007L02450]*.
AD/BELL 222/39—Flapping Bearing-to-Yoke Attachment Bolts [F2007L02451]*.
AD/BELL 222/40—Vertical Fin Attachment [F2007L02452]*.
AD/BELL 222/41—Main Rotor Grips and Flapping Bearing Assemblies [F2007L02454]*.
AD/CL-600/42 Amdt 1—Lower Wing Plank [F2007L02457]*.
AD/CL-600/79—Aileron Power Control Unit Links [F2007L02371]*.
AD/CL-600/81—Vertical Beams on Pressure Bulkheads at FS 409+128 and FS 559 [F2007L02458]*.
AD/CL-600/82—Aft Fuselage Frame at FS 640 [F2007L02459]*.
AD/CL-600/83—Wing Anti-Ice Ducts [F2007L02460]*.
AD/CL-600/84—Fuselage Pressure Floor Skin [F2007L02461]*.
AD/CL-600/85—Fuselage Frame FS409+128 Bulkhead Web [F2007L02462]*.
AD/DO 328/69—Passenger Door and Service Doors [F2007L02426]*.
AD/TBM 700/48—Main Landing Gear Wheel Axle [F2007L02453]*.

106—
AD/ARRIEL/24 Amdt 1—Constant Delta Pressure Valve Diaphragm [F2007L02352]*.
AD/ARRIUS/11 Amdt 1—Fuel Control Unit "Delta F" Diaphragm [F2007L02353]*.
107—AD/RAD/88—Honeywell Communications and Mode S Transponder Units [F2007L02412]*.

Currency Act—Currency (Royal Australian Mint) Determination 2007 (No. 4) [F2007L02285]*.

Safety, Rehabilitation and Compensation Act—

Safety, Rehabilitation and Compensation ( Licence Eligibility) Notice 2007 (2) [F2007L02423]*.

Safety, Rehabilitation and Compensation ( Licence Eligibility) Notice 2007 (No. 3) [F2007L02424]*.

* Explanatory statement tabled with legislative instrument.
QUESTIONS ON NOTICE

The following answers to questions were circulated:

Wilderness Society
(Question Nos 2400 and 2402)

Senator Bob Brown asked the Minister representing the Minister for Foreign Affairs and the Minister for Trade, upon notice, on 17 August 2006:
Has the Minister met with representatives of the Wilderness Society in the past 5 years; if so, on what dates.

Senator Coonan—The following answer has been provided by the Minister for Foreign Affairs and the Minister for Trade to the honourable senator’s question:
The Minister for Foreign Affairs meets with thousands of Australians every year from a wide range of backgrounds.
The Minister for Trade has not met with representatives of the Wilderness Society in the past 5 years.

Attorney-General’s
(Question Nos 2638 and 2648)

Senator O’Brien asked the Minister representing the Attorney-General and the Minister for Justice and Customs, upon notice, on 9 November 2006:
(1) Has the department instituted an internal costing or cost recovery system; if so: (a) what was the reason for instituting this system; and (b) can details be provided of the costs associated with instituting this system.
(2) As at 30 September 2006: (a) how many staff are there at each Australian Public Service (APS) level (including executive and senior executive level staff) by business unit, division or branch; and (b) what is the average salary of staff at each APS level (including executive and senior executive level staff) by business unit, division or branch.

Senator Johnston—The Attorney-General has provided the following answer to the honourable senator’s questions:
(1) Emergency Management Australia (EMA), a division of the Department, operates an internal activity based costing system.
(a) Activity Based Costing was introduced by EMA in 1999 as a financial management tool. It provides important information which is used to develop prices for cost recovery activities and it also helps EMA understand the true cost of certain programs.
(b) The initial set up costs for the system were approximately $120,000. Annual licensing costs are in the order of $22,000 per annum.
(2) (a) and (b) The table at Attachment A shows the total number of staff and the average staff salary at each Australian Public Service level in the Attorney-General’s Department.

<table>
<thead>
<tr>
<th>Business Unit</th>
<th>APS Level</th>
<th>Number of Staff</th>
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<tr>
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QUESTIONS ON NOTICE
National Security & Criminal Justice Group

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Corporate Services Group

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Financial Services Group

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Information & Knowledge Services Group

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<tr>
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Attorney General’s Department

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<tr>
<td>SESB2-3</td>
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Note:
The variation in average salaries between the Groups is a result of differences in the number of officers at particular pay points within the salary ranges and negotiated salaries under Australian Workplace Agreements.

SES average salaries are identified at the departmental level, rather than the Business Unit level, to ensure that individual salaries provided under Australian Workplace Agreements are not identified.

Water

(Question No. 2971)

Senator Bartlett asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 29 January 2007:

With reference to the Government’s water policy—

(1) In Australia, is the water that falls on a person’s roof, the property of that person or the property of government.
(2) If it is not the property of the individual person, under what legislation in Australia, are rights to water that falls on a person’s roof vested in governments, as claimed under clause 2 of the National Water Initiative (NWI) agreement.

(3) Under clause 2 of the NWI agreement, can governments, at their discretion, set entitlement regimes for the use of water that falls on a person’s roof in Australia; if so, under what circumstances would state and federal governments issue a specific entitlement to persons who capture water from their roof and what would that entitlement be.

(4) What magnitude of rainwater collected from roofs would be sufficient to warrant the issuing of specific entitlements to use this class of water as has been proposed by the National Water Commission.

(5) Does the Government rule out setting an entitlement regime for persons to use water collected from roofs in rainwater tanks; if so, will the Federal Government ask the state governments to amend the NWI agreement to make clear that no rights to water that falls on a persons roof are vested in governments.

(6) Is it correct that section 7 of the Victorian Water Act 1989 states, ‘The Crown has the right to the use, flow and control of all water in a waterway and all groundwater’; if so, is it the Commonwealth’s view that, for the purposes of the NWI, water from a person’s roof comes under this definition.

(7) Is it correct that section 392 of the New South Wales Water Management Act 2000 states, ‘the rights to the control, use and flow of…all water occurring naturally on or below the surface of the ground, are States water rights’; if so, does water from a person’s roof come under this definition.

(8) Is it correct that section 19 of the Queensland Water Act 2000 states, ‘All rights to the use, flow and control of all water in Queensland are vested in the State’, where: (a) ‘water means … (a) water in a watercourse, lake or spring; (b) underground water; (c) overland flow water; (d) water that has been collected in a dam’; and (b) ‘Overland flow water does not include … water collected from roofs for rainwater tanks’; if so, does water from a person’s roof come under this definition.

(9) Is it correct that section 124 of the South Australian Natural Resources Management Act 2004 states, ‘the occupier of land is entitled to take surface water from the land for any purpose’ and does surface water mean ‘water flowing over land’.

(10) Is surface water in South Australia: (a) water that is not captured and controlled; and (b) no-one’s property.

(11) Can water that falls on a person’s roof in South Australia be surface water.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) It is difficult to apply the concept of ‘property’ to naturally occurring water. It is better to look to the various ‘legal rights’ which arise in relation to that water. All states and territories have passed legislation which provides that the state or territory has primary rights of access to water, though these primary rights vary from state to state.

Subject to these state and territory primary rights, and other relevant laws, the owner of the land will have certain rights in relation to water which falls on their land, including roof water.

(2) Historically, under the common law, rights to water were incidental to owning land (riparian rights and other related rights). Over time laws have been enacted by states and territories to vest the water in the Crown and provide for sensible water sharing in an arid continent.

The reference in clause 2 of the NWI is to these concepts in the state and territory regimes.
(3) State and territory governments could establish entitlement regimes in order to regulate the use of water that falls on a person’s roof. These entitlements to use the water would be issued pursuant to legislation in each jurisdiction.

The circumstances under which state or territory governments might issue specific entitlements in relation to the capture of water from roofs, and the nature of that entitlement would be a matter for those governments.

(4) This decision is a matter for each of the states and territories. It has not been proposed by the National Water Commission.

(5) The Government sees no need for such an entitlement regime but as stated in response to part (4) of your question above, this is a matter for each of the states and territories.

(6) (7), (8), (9), (10) and (11) These questions go to the legal interpretation of state legislation. The Commonwealth is not in a position to provide an interpretation of these provisions for the purpose of answering these questions as these are not matters which are currently the subject of Commonwealth responsibility or policy development.

**Wet Tropics World Heritage Area**

*(Question No. 3066)*

**Senator Milne** asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 22 March 2007:

(1) Does the Wet Tropics World Heritage Management Plan provide for a transport corridor such as that required for the proposed highway.

(2) Will the Kuranda Range Highway, if approved, result in more physical damage to the Wet Tropics World Heritage Area than existed at the time that it was listed.

(3) (a) Does the proposed highway compromise the values for which the area was listed; and (b) does it undermine the physical integrity of the site.

(4) Does this proposal contravene any of the provisions of the World Heritage Convention, in particular Article 6.3.

**Senator Abetz**—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) No. However, the Wet Tropics World Heritage Management Plan can be amended, if necessary, to allow for the widening and realignment of the Kennedy Highway as part of the proposed Kuranda Range Road upgrade.

(2) The Kuranda Range Road upgrade will result in localised impacts to the Wet Tropics World Heritage Area during construction. However those impacts will be offset by an increase in connectivity through the construction of bridges, and the environmental conditions placed on the project.

(3) (a) No. (b) No.

(4) No.

**Convention on Biological Diversity**

*(Question No. 3149)*

**Senator Bob Brown** asked the Minister representing the Minister for the Environment and Water Resources, upon notice, on 19 April 2007:

(1) Is the Government committed to meeting the 2010 biodiversity target set by the Convention on Biological Diversity, namely to achieve a significant reduction in the rate of biodiversity loss.

(2) How will the Government evaluate its progress in relation to this target.
(3) Will interim reports be provided between the years 2007 and 2010; if not, why not.

Senator Abetz—The Minister for the Environment and Water Resources has provided the following answer to the honourable senator’s question:

(1) Australia supports, as an aspirational goal, the Convention on Biological Diversity 2010 target.

(2) All governments, National, State and Territory, continuously evaluate progress in Australia’s biodiversity conservation using indicators and other monitoring and evaluation mechanisms that are appropriate to particular ecosystems or scales. For example: Australia’s national five-yearly State of the Environment reports, monitoring and evaluation protocols under the National Natural Resource Management Monitoring and Evaluation Framework, and various performance assessment systems used for evaluation of progress in Australia’s terrestrial and marine protected areas. Progress is reported to the Secretariat to the Convention on Biological Diversity in Australia’s National Report, which is submitted every three to four years.

**Trade Practices**

(Question No. 3202)

**Senator Webber** asked the Minister representing the Minister for Revenue and Assistant Treasurer, upon notice, on 11 May 2007:

(1) With reference to answers to questions taken on notice in 2006 during the Economics Legislation Committee’s Budget estimates in response to Senator Webber’s question regarding any deficiencies in the Trade Practices Act 1974 arising out of the case of **Auto Masters Australia Pty Ltd v Brunes Pty Ltd** and to answers from the Australian Competition and Consumer Commission (ACCC) indicating that the matter outlined the complexity of the legal principles involved, did the ACCC make any recommendations to the department as a result of the complexity of the legal principles that were exposed by the application of the Act in this instance.

(2) (a) Can the Minister explain why there have been discrepancies in answers provided to Senator Webber in previous estimates hearings regarding the numbers of unconscionable conduct complaints received by the ACCC; and (b) can the correct number of complaints received for each year since 2000 now be provided.

(3) With reference to written correspondence from the ACCC to Mr David Coombes, dated 18 December 1998, advising that Auto Masters had withdrawn any threats of breaches or the termination of his franchise: (a) can the ACCC confirm that Mr Coombes again approached the ACCC after Auto Masters issued a breach notice on 24 December 1998; if so, what action did the ACCC take in relation to that matter; and (b) why did the ACCC not secure court enforceable undertakings in accordance with procedures, when Auto Masters breached the understanding with the ACCC.

(4) Can the ACCC confirm that Mr Coombes again approached the ACCC in March 1999 seeking further clarification of the Act and support when Auto Masters refused to participate in mandatory mediation; if so, what action did the ACCC take in relation to this matter.

(5) With reference to written correspondence from the Parliamentary Secretary to the Treasurer, Senator Ian Campbell, to Mr Coombes dated 17 October 2002 advising that the ACCC had written to Auto Masters on 1 June 2002 but was unable to find evidence of any breaches of the Act in its responses, did the ACCC seek legal advice before approaching Auto Masters during the trial; if so, can a copy of that advice be provided.

(6) In response to the finding by the Supreme Court of Western Australia on 4 December 2002, that the conduct of Auto Masters was serious, unfair and oppressive and showing no regard for conscience in breach of the Act, will the ACCC confirm that had it secured undertakings from Auto Masters following the issuing of the breach notice on 24 December 1998, Auto Masters would have been inclined to cease their unconscionable conduct.
Senator Coonan—The Minister for Revenue and Assistant Treasurer has provided the following answer to the honourable senator’s question:

(1) The ACCC did not make any recommendations to Treasury as a result of the complexity of the legal principles that were revealed in Auto Masters Australia Pty Ltd v Bruness Pty Ltd & Anor. The ACCC does not consider that the fact that the legal principles involved in the case were complex, in itself, indicates that there is any need for legislative amendment.

(2) (a) Human error on the part of the person collating the information resulted in the numbers of unconscionable conduct complaints received by the ACCC in 2004-05 to be incorrectly attributed to 2005-6 in response to Senator Webber’s Question on Notice (4) asked at the Senate Budget Estimates 30 May – 1 June 2006.

(b) The correct number of complaints for each year since 2000 is illustrated in the following table:

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<thead>
<tr>
<th>Period</th>
<th>51 AC Allegations</th>
</tr>
</thead>
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<td>2001 - 02</td>
<td>654</td>
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<td>2005 - 06</td>
<td>322</td>
</tr>
<tr>
<td>2006 - 07*</td>
<td>153</td>
</tr>
</tbody>
</table>

*2006 – 2007 figures are to 31 May 2007

(3) (a) The ACCC confirms that Mr Coombes again approached the ACCC after Auto Masters issued a breach notice on 24 December 1998. The ACCC did not consider further action was warranted.

(b) The ACCC did not have an understanding with Auto Masters. Section 87B of the Trade Practices Act 1974 (the Act) provides that the ACCC may accept a written undertaking in connection with the exercise of its powers under the Act (other than Part X), and for the enforcement of such undertakings in the Federal Court. The ACCC regards s.87B as an important compliance tool in situations where there is evidence of a breach or potential breach of the Act that may otherwise justify litigation. At no time did the ACCC consider that it was appropriate to seek section 87B undertakings from Auto Masters.

(4) The ACCC confirms that Mr Coombes approached the ACCC in March 1999. Bruness Pty Ltd had filed a Notice of Dispute on Auto Masters on 15 March 1999 under clause 29(1) of the Trade Practices (Industry Codes – Franchising) Regulations 1998 (the Code) which provides for written notification by the complainant to the respondent about the dispute. At that time, staff did not consider that the matter had reached the point of “mandatory mediation” because clause 29(6) of the Code had not been triggered and therefore did not consider any action was warranted.

As background, Clause 29(2) of the Code provides that the parties should try to agree about how to resolve the dispute. Clause 29(3)(a) of the Code provides that if the parties cannot agree under subclause (2) within 3 weeks, either party may refer the matter to a mediator. Clause 29(6) of the Code provides that parties must attend the mediation and try to resolve the dispute.

(5) The ACCC does not have a copy of the letter from the Parliamentary Secretary to the Treasurer, Senator Ian Campbell, to Mr Coombes dated 17 October 2002. Supreme Court records indicate the trial took place on 22, 25-28 March, 8-12 April, 4-7 and 20-21 June 2002. The ACCC did not respond with Auto Masters during this period.

(6) The ACCC does not consider that it can reasonably comment on this scenario.
Aged Care  
(Question No. 3215)

Senator Allison asked the Minister representing the Minister for Ageing, upon notice, on 8 June 2007:

(1) Does the Minister believe that accreditation reports are a useful source of information for potential residents of aged care facilities and their families.

(2) Does the Minister believe that it is useful for potential residents and their families to observe how a particular facility has performed over a period of time, that is, whether it has consistently met the accreditation standards.

(3) What proportion of aged care homes that have met the standard on their current accreditation report have failed to meet the standard on a previous accreditation report.

(4) (a) When was the decision made to make only the most recent accreditation report available online; (b) when did this change come into effect online; and (c) what led to this change being made.

(5) When previous accreditation reports were available online how many were accessed.

(6) (a) How many requests have there been in writing for copies of previous accreditation reports since the policy regarding online storage of past reports was changed; (b) what is the average response time taken to meet these requests; and (c) what is the longest time that has been taken to respond to a request.

Senator Ellison—The Minister for Ageing has provided the following answer to the honourable senator’s question:

(1) Accreditation audit reports are one source of information. It is important for potential residents and their families to ask questions about a home’s suitability, including about the home’s compliance history, keeping in mind that the circumstances of a home can change considerably over a short period of time, eg. change in ownership and changes in management and key personnel. The consumer website www.agedcareaustralia.gov.au provides useful information for potential residents and their families to consider before entering aged care facilities.

(2) See response to question (1).

(3) Of the 2,884 active homes (as at 31 May 2007), 2,614 were assessed as compliant with all 44 expected outcomes of the Accreditation Standards at their most recent accreditation site or review audit. Of these, 326 or 12.5% had some non-compliance at their previous accreditation site or review audit.

(4) (a) The Aged Care Standards and Accreditation Agency (the Agency) redeveloped its website with a re-vamped site launched in August 2005. Prior to the redevelopment, a review of what information was being accessed on a regular basis and what parts of the old website were not in demand was undertaken to inform the redevelopment process. Old reports (some dating back to 2000) were getting very few ‘hits’, and yet were taking up considerable website space which could be more productively used for purposes such as industry education. The decision was made to not transfer the old reports across onto the new website. However, archived reports are still readily available. This is set out clearly on the website where visitors can search for a current report. On the ‘reports on homes’ search page it says: “If you would like a copy of a report which is not current or cannot be viewed on this website, please write to national@accreditation.org.au or to the General Manager Operations, PO Box 773 Parramatta NSW 2124.”. (b) August 2005. (c) The Agency introduced a new website.
(5) Less than 1% of hits to the Agency’s old website were to access archived reports.

(6) (a) This information is not recorded however, the Agency receives a small number of requests, generally around one or two per month. (b) This information is not recorded. If the request is for a copy of a report to be emailed it is generally provided within 24 hours. Requests for copies to be posted via mail can take slightly longer. (c) See (b).